

# Forest Heath District Council

**DEVELOPMENT  
CONTROL  
COMMITTEE**

**5 FEBRUARY 2014**

**DEV14/098**

**Report of the Head of Planning and Regulatory  
Services**

**PLANNING APPLICATION DC/13/0203/FUL – 74 UPPER GREEN, HIGHAM**

## **Synopsis:**

Application under the Town and Country Planning Act 1990 and the Planning (Listed Buildings and Conservation Areas) Act 1990 and associated matters.

## **Recommendation:**

**It is recommended that the Committee determine the attached application and associated matters.**

## **CONTACT OFFICER**

Julie Sheldrick (Case Officer)  
Tel. No. 01638 719227

# Committee Report

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**Parish:** Higham **Committee Date:** 05 February 2014  
**App. No:** DC/13/0203/FUL **Date Registered:** 06 November 2013  
**Expiry Date:** 01 January 2014  
**Proposal:** Retrospective Application: erection of entrance gates and adjoining brick wall  
**Site:** 74 Upper Green, Higham  
**Applicant:** Mr Trevor Buckley

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## **Background:**

**This application is referred to the Development Control Committee due to the planning history of the site and the retrospective nature of the proposal. Objections have been received from consultees and third parties. The application is recommended for REFUSAL.**

## **Application Details:**

1. This is a retrospective application to retain the black gates and adjoining brick wall and piers that have been erected to the entrance to the site. The application has been submitted following a Breach of Condition Notice being served on the applicant.
2. The gates measure 2.8 metres to the highest point and the adjoining brick piers with ball finials on top measure 2.3 metres to the highest point. The brick wall that connects the brick piers, on both sides of the gates, measures 0.9 metres high.

## **Amendments:**

3. No amendments have been made since the application was submitted.

## **Site Details:**

4. The site is located at the western extremity of the village and lies within the Higham Conservation Area. The land to the south of the entrance gates is used as paddocks for grazing horses and a driveway leads to a recently constructed stable block. The entrance to the site is accessed from the road that connects Higham and Gazeley and the gates are set back from the road by approx. 9.3 metres.

5. The entrance gates are positioned approx. 220 metres (measured by road) from the main house (Cobblestones, 74 Upper Green) where the applicant resides. Other residential properties lie to the north, on the opposite side of the road, and are set back from the road by front gardens and vegetation that contribute to the rural character of the area. The paddock is enclosed by a post and rail fence that runs along the boundary of the road and established hedges define the boundary on the opposite side of the road. The surrounding area, to the north, east and south, comprises of agricultural fields interspersed by hedgerows and trees.

### **Application Supporting Material:**

6. The information submitted with this application comprises of drawings and photographs.

### **Planning History:**

7. F/2011/0341/FUL – Change of use of land to paddocks including the erection of a stable block with hardstanding and access track (approved with conditions at the planning committee meeting held on 21 September 2011)

### **Consultations:**

8. Conservation Officer - Objects to the application with the following comments:

*"The gates and walls have been constructed at the entrance to a paddock and stable located at the western extremity of the village and conservation area. It is some distance away from the house – Cobblestones, 74 Upper Green.*

*This part of the conservation area is very rural in character with hedges and low palisade fencing marking boundaries. The gates as erected, with their tall brick piers with ball finials and fleur de lys railings, are of a design more typically used to indicate the entrance to a grand house rather than a stable (although the house name is shown in the wall which is surprising given the distance from the house – is this now the new entrance?). They do not reflect the rural character of the area or the traditional boundary designs found in this part of Higham.*

*The scale and style of the gates and walls is inappropriate to their location. They do not preserve or enhance the character or appearance of the conservation area and are contrary to the requirements of policies DM18, CS3 and CS5*

*I recommend **refusal** of this application. The timber gate which existed prior to the provision of the current walls and gates was much more suitable to the location and this should be reinstated unless the applicant*

*wishes to propose any alternative, but equally appropriate, solution for consideration"*

9. SCC Highways – No objection.

### **Representations:**

10. Higham Parish Meeting – Object to the application and their comments can be summarised as:

- Out of keeping with the site and has 'suburbanised' the conservation area
- The initial proposal for a timber field gate on timber posts giving access to a hardcore drive is considered much more appropriate
- Object, not on the basis of the quality of the design or workmanship but the inappropriateness within the conservation area
- Permission should not be granted and the Council should continue with its enforcement action

11. Two letters of objection have been received from local residents and their comments can be summarised as:

- Inappropriate in its statement, style and scale as an access to a rural recreational facility and the designation of the area as a conservation area
- The approved driveway was stated as being hardcore construction but is now an impermeable tarmac surface – should this also be subject to planning?
- Concerns regarding the retrospective nature of the application and the incremental, inappropriate development at this site
- It does not preserve the conservation area for the enjoyment and amenity of all
- The land was previously a dense copse that provided a habitat for a range of wildlife but this has been cleared leaving only a few trees. Concerns regarding the development of the site to date.

12. Two letters of support have been received from local residents.

### **Policies:**

#### **Development Plan:**

13. The following Forest Heath Core Strategy (2010) policies are relevant to the consideration of this application:

Policy CS3: Landscape Character and the Historic Environment  
Policy CS5: Design Quality and Local Distinctiveness

14. The following Forest Heath Local Plan (1995) policies are relevant to the consideration of this application:

Policies 9.1 & 9.2: The Rural Area & New Development

## **Other Planning Policy:**

15. The National Planning Policy Framework (2012) is relevant to the consideration of this application, and in particular:

Section 7: Requiring Good Design

Section 11: Conserving and Enhancing the Historic Environment

## **Officer Comment:**

16. This application is the result of enforcement action taken by the Authority, by way of a Breach of Condition Notice served on the applicant. The background to the application therefore needs careful consideration.

17. Planning permission F/2011/0341/FUL was granted for the change of use of the land to paddocks and the erection of a stable block in the south-west corner of the site. At the time, the site was served by an existing access, in the same location as the current access, but which comprised of a timber gate with adjoining post and rail fencing and there was no hard surface. The approved plans showed the existing field access and there were no proposals for alternative gates or fences as part of the proposal. Planning permission was granted with a number of conditions to ensure that the development would be satisfactory within this location (attached in Working Paper 1). Of particular relevance, condition 15 states:

*Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (or any other Order revoking and re-enacting that Order), no fences, gates or walls shall be erected within the application site unless otherwise agreed in writing by the Local Planning Authority upon submission of a planning application made in that behalf.*

*Reason: To retain the open nature of the site in the interests of the character of the conservation area.*

18. Within the adopted Higham Conservation Area Appraisal, the site is identified as an important open space and as such, this condition was considered necessary to ensure that the Authority had control over any fences, gates or walls that were to be erected at the site so that the open nature and rural character of the area could be preserved.

19. The Authority received a complaint regarding the erection of the entrance gates, brick piers and wall and following a site visit by the Case Officer, and discussions with the Conservation Officer, it was concluded that the development was inappropriate within this rural location and harmful to the open character of the conservation area. A Breach of Condition Notice was subsequently served on the applicant on 23 August 2013 which required the gates and brick wall to be removed within 28 days and a timber gate, to match the one previously present at the site, to be re-instated. This planning application was submitted in response to the Notice and therefore the Authority considered it reasonable in this context to take no further enforcement action until this application had been determined.

20. The main considerations when determining this planning application are the visual impact of the gates, brick piers and walls and whether it is harmful to the visual amenities of the surrounding area and the character of the conservation area.
21. This location forms the approach to the village from Gazeley and has a predominantly rural character, with hedges and low palisade fencing marking boundaries. The Higham Conservation Area Appraisal identifies the applicant's land to the south as an area of important open space and recognises the 'fine panoramic views' from the road looking west away from Upper Green and towards the valley where the land slopes down. This area therefore makes an important contribution to the character of the conservation area.
22. The entrance to the site was originally defined by a timber gate with post and rail fencing either side which had a traditional, plain and practical, appearance that was appropriate within this rural location. In contrast, the gates that have been erected are decorative and of a design that usually mark the entrance to a grand house. They have a suburban character and do not reflect the rural, open character of the area or the traditional boundary designs found in this part of Higham.
23. It is Officer's opinion that the gates, brick walls and piers are an inappropriate design for their context and as such, are visually intrusive in this location and harmful to the open and rural character of the area that contributes to this part of the conservation area. The application is therefore recommended for refusal and it is suggested that the timber gates which previously existed would be much more appropriate in this location.
24. Should the application be refused, the Authority would pursue the requirements of the Breach of Condition Notice and the applicant would need to comply with the Notice within 28 days. A failure to comply with the terms of the condition following the service of a Breach of Condition Notice is a criminal offence for which a prosecution could be brought. 28 days is considered a reasonable timescale to enable the removal of the gates and wall and the re-instatement of a more traditional timber gate. If the Notice is not complied with in the specified time this would lead to consideration of a prosecution. It should be noted that the applicant may choose to appeal a decision to refuse this application and as such, if an appeal is lodged within this extended 28 day period following any refusal, Officers consider it reasonable not proceed with prosecution until the appeal has been determined.
25. Should the application be approved, the gates, brick walls and piers will remain at the site, with the benefit of planning permission.
26. Third party representations received in response to this application have raised concerns regarding the tarmac drive that leads to the stable block. Under planning permission F/2011/0341/FUL a driveway of crushed concrete with a kerb stone border was approved. The tarmac driveway does therefore not benefit from planning permission and is a breach of condition 16 that requires the development to be carried out in accordance with the approved plans. Officers are therefore discussing

this matter with the applicant/agent to determine a way forward in respect of the tarmac drive.

### **Conclusion:**

27. In conclusion, the gates, brick walls and piers are considered to be visually intrusive in this location and harmful to the open and rural character of the area that contributes to this part of the conservation area. The application is therefore recommended for refusal.

### **Recommendation**

28. That retrospective planning permission is refused for the reason given below and that the requirements of the Breach of Condition Notice are enforced, which require the removal of the gates, brick wall and piers within 28 days of the date of the decision. The reason for refusal is:

The gates and brick walls have a suburban appearance that do not reflect the rural, open character of the area or the traditional boundary designs found in this part of Higham. The development has no regard to local context and constitutes an inappropriate design in this location. It is therefore visually intrusive and harmful to the rural character of the area that contributes to this part of the conservation area. The development is contrary to Policies CS3 and CS5 of the Forest Heath Core Strategy (2011) that require new development to have regard to local distinctiveness and the historic environment and Saved Local Plan Policies 9.1 and 9.2 that require boundary treatment in the rural area to be of an appropriate rural character. It is also contrary to the objectives of the National Planning Policy Framework (2012) that seek to deliver good design that makes a positive contribution to the quality and local character of an area.

### **Documents:**

All background documents including application forms, drawings and other supporting documentation relating to this application can be viewed online:

<http://www.eplan.forest-heath.gov.uk/mvm/online/dms/DocumentViewer.aspx?PK=534986&SearchType=Planning%20Application>

Alternatively, hard copies are also available to view at Planning, Planning and Regulatory Services, Forest Heath District Council, District Offices, College Heath Road, Mildenhall, Suffolk, IP28 7EY

Case Officer: Julie Sheldrick  
Tel. No. 01638 719227