

**ROYAL BOROUGH OF WINDSOR & MAIDENHEAD
PLANNING COMMITTEE**

WINDSOR URBAN DEVELOPMENT CONTROL PANEL

15 August 2018

Item: 1

Application No.:	18/01364/FULL
Location:	6 Turks Head Court Eton Court Eton Windsor SL4 6AL
Proposal:	Retention of a fence along the front and right hand boundary of the front courtyard
Applicant:	Mr Hybert
Agent:	Mr Ben Willcox
Parish/Ward:	Eton Town Council/Eton With Windsor Castle Ward
If you have a question about this report, please contact: Briony Franklin on 01628 796007 or at briony.franklin@rbwm.gov.uk	

SUMMARY

- 1.1 The application seeks retrospective planning permission to retain an existing fence which has been erected without planning permission. The fence has been erected to enclose a courtyard garden situated at the front of flats at Turks Head Court. The site lies within the Eton Conservation Area.
- 1.2 The application follows an Enforcement Notice which was issued on the 22nd November 2017 against the unauthorised erection of the fence. Since the Notice has been served a fence panel has been removed at the front of the site and part of the fence adjacent to the vehicular access has been reduced in height in order to improve visibility from the shared vehicular access serving Turks Head Court.
- 1.3 The primary reason for issuing an Enforcement Notice related to sub-standard pedestrian and vehicular visibility splays that was considered to be detrimental of highway safety. The Local Highway Authority has confirmed that the revisions made to the fencing enable adequate visibility splays to be provided from the junction and therefore no highway objection is raised. In addition it is considered that on balance the development adequately preserves and maintains the character and appearance of the Conservation Area and the visual amenity of the locality in general and the Conservation Officer has raised no objection to the application.

It is recommended the Panel grants retrospective planning permission to retain the fence.
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2. REASON FOR PANEL DETERMINATION

- The Head of Planning considers it appropriate if the Panel determines the application.

3. DESCRIPTION OF THE SITE AND ITS SURROUNDINGS

- 3.1 The application site includes a two storey, flat roofed building comprising a ground and first floor flat, numbers 6 & 7 Turks Head Court. Vehicular access is gained via Eton Court and the site shares its access with the flats at 4 & 5 Turks Head Court and the dwellings numbered 1-3 Turks Head Court located to the rear of the site.
- 3.2 The site lies within a residential area to the west (rear) of the High Street and opposite a public car park. The site also lies within Eton Conservation Area and within Flood Zones 2 and 3.

DESCRIPTION OF THE PROPOSAL AND ANY RELEVANT PLANNING HISTORY

- 4.1 The application seeks retrospective planning permission to retain an existing slatted, cedar fence that has been erected without planning permission to enclose a courtyard garden at the front of the flats. The courtyard garden serves the applicant's first floor flat, number 6 Turks Head Court.
- 4.2 A fence has been erected above an existing dwarf wall along the front boundary of the site and has an overall height of 1.7m. A 1.7m high cedar fence has also been erected alongside the access with a section at the entrance measuring 0.8m in height.
- 4.3 The application follows an Enforcement Notice which was issued on the 22nd November 2017 in relation to the erection of a fence without planning permission. The reasons for issuing the Notice are set out as follows:
1. The boundary fence has introduced a conspicuous and visually discordant form of development that has a significant detrimental impact on the appearance of the street scene. As such the development is contrary to saved Policy DG1 of the Royal Borough of the Windsor and Maidenhead Local Plan 1999 (incorporating alterations adopted in June 2003) and Policy SP3 of the emerging Borough Local Plan 2013-2033.
 2. The boundary fence results in sub-standard pedestrian and vehicular visibility splays to the detriment of highway safety. The development is therefore contrary to saved Policy T5 of the Royal Borough of Windsor and Maidenhead Local Plan, 1999 (Incorporating Alterations Adopted in June 2003.)
 3. The fence as erected is harmful to the Eton Conservation Area by reason of its prominent siting, height and stark, out of character appearance. It is therefore contrary to saved Policy CA2 of the Royal Borough of Windsor and Maidenhead Local Plan 1999 (Incorporating Alterations adopted June 2003) and Policy HE1 of the emerging Borough Local Plan 2013-2033.
- 4.4 The Notice requires the fence to be removed within 7 days from the date of the Notice. No enforcement appeal has been lodged. Since this Notice was served the applicant has removed a fence panel at the front of the site and part of the fence adjacent to the vehicular access has been reduced in height to 0.8m to help improve visibility from the access drive onto Eton Court in an attempt to overcome the highway objection, which is the primary concern.
- 4.5 Other planning history relating to this site includes:

18/00961/FULL	Construction of mansard roof to create a second floor to flat 2 and external alterations to existing building to include rendered exterior and alterations to fenestration at 4-5 Turks Head Court.	Permitted.
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5. MAIN RELEVANT STRATEGIES AND POLICIES RELEVANT TO THE DECISION

5.1 National Planning Policy Framework (2018)

- Section 12 – Achieving well-designed places
- Section 16 – Conserving and enhancing the historic environment

Royal Borough Local Plan

- 5.2 The main strategic planning considerations applying to the site and the associated policies are:

Within settlement area	Highways	Development in Conservation Areas	Flooding
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DG1	T5	CA2	F1
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These policies can be found at:

https://www3.rbwm.gov.uk/downloads/download/154/local_plan_documents_and_appendices

Borough Local Plan: Submission Version

Issue	Local Plan Policy
Design in keeping with character and appearance of area	SP2, SP3
Manages flood risk and waterways	NR1
Historic Environment	HE1
Sustainable Transport	IF2

The NPPF sets out that decision-makers may give weight to relevant policies in emerging plans according to their stage of preparation. The Borough Local Plan Submission Document was published in June 2017. Public consultation ran from 30 June to 27 September 2017. Following this process the Council prepared a report summarising the issues raised in the representations and setting out its response to them. This report, together with all the representations received during the representation period, the plan and its supporting documents have now been submitted to the Secretary of State for examination. The Borough Local Plan submission version does not form part of the statutory development plan for the Borough. However, by publishing and submitting the Borough Local Plan for independent examination the Council has formally confirmed its intention to adopt the submission version. As the Council considers the emerging Borough Local Plan to be sound and legally compliant, officers and Councillors should accord relevant policies and allocations significant weight in the determination of applications taking account of the extent to which there are unresolved objections to relevant policies. Therefore, the weight afforded to each policy at this stage will differ depending on the level and type of representation to that policy.

Significant weight is to be accorded to Borough Local Plan Submission Version policies SP2, SP3, HE1 and IF2 in this case. Lesser weight should be accorded to Borough Local Plan Submission Version policy NR1 due to the extent and nature of objections raised to it by representations on the Borough Local Plan Submission Version.

This document can be found at:

https://www3.rbwm.gov.uk/info/201026/borough_local_plan/1351/submission/1

Eton and Eton Wick Neighbourhood Plan 2016-2036 Amended Plan for Referendum

Issue	Neighbourhood Plan Policy
Development within Eton	HD3

- 5.3 The NPPF sets out that decision-makers may give weight to relevant policies in emerging plans according to their stage of preparation. The Neighbourhood Plan has passed the referendum and now forms part of the development plan.

Supplementary planning documents

- 5.4 Supplementary planning documents adopted by the Council relevant to the proposal are:

- The Interpretation of Policy F1 (Area Liable to Flooding) Supplementary Planning Guidance (SPG) 2004

Other Local Strategies or Publications

- 5.5 Other strategies or publications relevant to the proposal are:

- Eton Design Guidance – Appendix 1 of the Neighbourhood Plan
- Eton Conservation Area appraisal - view at:
https://www3.rbwm.gov.uk/info/200207/conservation/666/conservation_areas

6. EXPLANATION OF RECOMMENDATION

6.1 The key issues for consideration are:

- i Highway & Pedestrian safety
- ii Impact on the character and appearance of the Conservation Area.
- iii Impact on the visual amenity of the site itself and the locality in general
- iv Impact on the living conditions of the neighbouring properties
- v Flooding

i Highway & Pedestrian safety

6.2 Since the Enforcement Notice was served the applicant has removed a fence panel at the front of the site and reduced the height of the panel adjacent to the access in an attempt to overcome the highway objection, which is the primary concern in this case.

6.3 The Highway Authority has commented that the site has always had a 0.8m high wall to the front boundary either side of the vehicular access and therefore, being 0.2m above the Local Authorities current standard, pedestrian visibility splays of 2.0m x 2.0m were not achieved. The new fence which was causing visibility issues has now been reduced to the height of the previous boundary wall and a fence panel has been removed from the front boundary. The Highway Authority has confirmed that this revision provides the same level of visibility from the junction as previously provided before the fence was erected. On the basis that the proposed development does not result in undue harm over and above the previous boundary wall in terms of highway safety, the proposed development is considered acceptable. It is noted that there have been no reportable injury accidents at or near the access within the last 20 years.

6.4 It is also noted that there is an existing multi-stemmed tree on the corner of the site and it is understood that the applicant has recently planted a hedge. The planting of a hedge does not constitute development requiring planning permission. An informative could however be added to advise the applicant to ensure that the hedge is kept down at the height of the existing boundary wall/fence in order to maintain adequate visibility splays.

ii Impact on the character and appearance of the Conservation Area

6.5 Local Plan Policy CA2 advises that within a Conservation Area development should preserve or enhance the character or appearance of the area. Emerging policy HE1 of the Borough Local Plan places similar emphasis on preserving and enhancing the historic environment in a way which is appropriate to its significance.

6.6 The application site is situated within Eton Conservation Area and lies to the west of the High Street in the character area named "The residential areas to the east and west of the High Street". The relevant conservation area appraisal states that the buildings in this area show a mix of styles with a proportion being modern residential developments from the 20th Century. In terms of boundaries most properties either face directly onto the street or are set back within small garden areas, some of which are enclosed with low fencing or informal planting.

- 6.7 The Conservation Officer has raised no objection to the retention of the fence. The development is considered to adequately preserve the character and appearance of this part of the Conservation Area and no objection is therefore raised to the retention of the fence on Conservation Area grounds.

iii Impact on the character and appearance of the site itself and the locality in general

- 6.8 The site lies opposite a public car park and there are a variety of residential buildings including a 1960's flatted development in the vicinity of the site. The original notice had secondary reasons with regards character and conservation however it is considered that these are not strong enough reasons in isolation to withhold planning permission. The cedar fence had part of it removed and has a slatted design that has weathered well and has integrated better with its' setting than initially expected. It is not considered that the fence appears unduly prominent in the street scene and does not, on balance, detract from the character and appearance of the site itself or the locality in general sufficient to warrant a refusal of the application.

iv Impact on the living conditions of the neighbouring properties

- 6.9 It is important to consider the impact of the fence on the living conditions of any neighbouring properties. An objection has been received on the grounds that the fence reduces the amenity and quality of life for the occupant of the ground floor flat in terms of removing views and sunlight. The loss of view is not however a material planning consideration and given the distance maintained between the slatted fence and the ground floor windows it is not considered that the fence causes significant harm to the light and outlook of the ground floor flat.

v. Flooding

- 6.10 The site lies within Flood Zones 2 and 3. Local Plan policy F1 requires development should not: 1) impede the flow of flood water; 2) reduce the capacity of the flood plain to store flood water; or 3) increase the number of people or properties at risk of flooding. The fence is permeable to flood water and would not impede the flow of flood water. As such the fence does not increase the risk of flooding and would accord with policy F1.

7. Other Material Considerations

- 7.1 The Council has the power to decline to determine an application for planning permission in respect of land to which an enforcement notice relates under the Town and Country Planning Act (1990) Section 70C. However in this instance it is considered that the application is sufficiently materially different from the development enforced against and therefore the application should be determined in this instance.

Significant weight is to be accorded to the relevant Borough Local Plan Submission Version policies in this case. The above application is considered to comply with the relevant policies listed within the Development Plan and the Borough Local Plan Submission Version.

8. CONSULTATIONS CARRIED OUT

Comments from interested parties

A total of 6 neighbours have been notified directly of the application.

The planning officer posted a notice advertising the application at the site on the 18th May 2018 and the application was advertised in the Maidenhead & Windsor Advertiser on the 21st June 2018.

One letter of objection has been received and is summarised below:

Comment		Where in the report this is considered
1.	Enforcement Notice issued as the fence contravenes the Eton Conservation Area and the Highway's design standards.	Paragraph 4.3, 4.4, 6.2 – 6.4
4.	Council has the power to decline to determine retrospective applications in relation to applications where there is already a pre-existing enforcement notice issued.	Paragraph 7.1
5.	Eton Court is used as a pedestrian school route and visibility splays of 2.4m by 2.4m are required.	Paragraph 6.2 – 6.4
6.	Sight line is not free from obstruction because it is filled with a mature, multi-stemmed tree trunk and an evergreen hedge has recently been planted by the applicant.	Paragraph 6.4
7.	Application does not meet the council's highway's design standards of providing at least a 2 metre visibility splay that is free of all obstructions.	Paragraph 6.2 – 6.4
8.	The Council should refuse to determine this application under the Town and Country Planning Act 1990, S70C powers and the enforcement notice should be pursued with prosecution or direct action in the interests of highway safety.	Paragraph 7.1
9.	The applicant owns the first floor flat (number 6) and the fence impacts on the ground floor flat (number 7) reducing the occupant's amenity and quality of life in terms of removing views and sunlight.	Paragraph 6.9
10 ..	Four brick pillars and capping stones have been removed which have damaged the Eton Conservation Area.	Paragraph 6.5 – 6.7
11	Contravenes Conservation Area policies – does not provide a statement about how the development conserves or enhances the character and appearance of the Conservation Area and contributes positively to the character, local distinctiveness and significance of the historic environment.	Paragraph 6.5 – 6.7
12	Application contravenes the character and appearance of the Conservation Area and if it is not refused would set a dangerous precedent.	Paragraph 6.5 – 6.7

Other consultees

Consultee	Comment	Where in the report this is considered
Conservation Officer	No objection	Paragraph 6.5 – 6.7
Highway Section	No objection	Paragraph 6.2 – 6.4
Eton Town Council	No comments received to date (expiry 10 th July)	

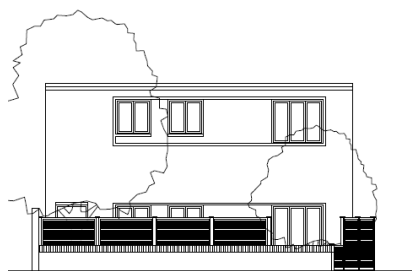
9. APPENDICES TO THIS REPORT

- Appendix A - location plan, site plan and elevations.
- Appendix B - photographs

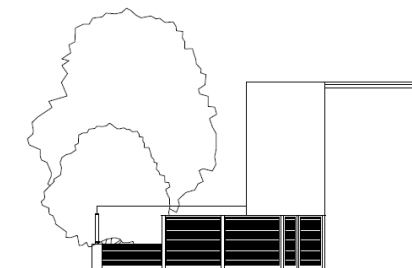
Informatives

- 1 The applicant is advised to keep the height of the hedge/vegetation cut down to the height of the existing boundary wall adjacent to the vehicular access in order to maintain adequate visibility splays.

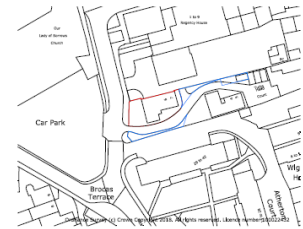
APPENDIX A – LOCATION PLAN, SITE
PLAN & ELEVATIONS



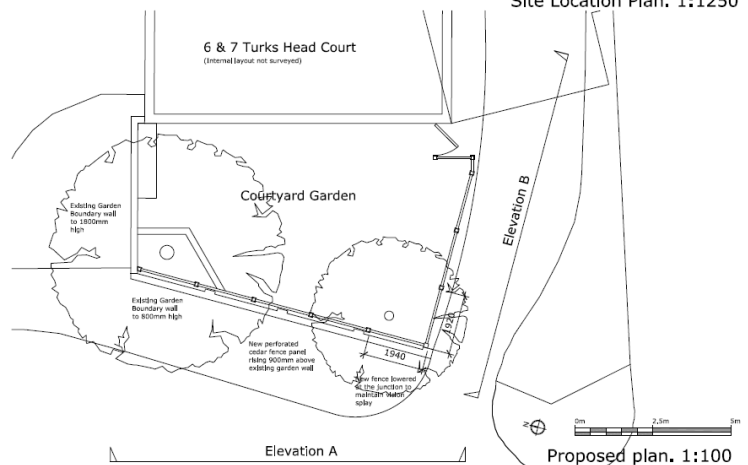
Elevation A. 1:100



Elevation B. 1:100



Site Location Plan. 1:1250



Proposed plan. 1:100

Project
6 Turks Head Court
Eton
Client

Mr T Hybert

www.Wamarchitecture.com

Project No	Drawing Title		
999	Proposed Planning Application Drawing		
DWG Type	DWG No	Rev	Scale
PL	100	00	Var
Date	Drawn	Checked	Status
01/05/18	BW	BW	For Approval

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APPENDIX B - PHOTOGRAPHS

