

Report to: PLANNING COMMITTEE

Date of Meeting: 23 November 2022

Report from: Assistant Director of Housing and Built Environment

Application address: **Sacred Heart Catholic Primary School, Old London Road, Hastings, TN35 5NA**

Proposal: **New security fencing to Old London Road and Dudley Road boundaries**

Application No: **HS/FA/22/00335**

Recommendation: **Grant Full Planning Permission**

Ward: OLD HASTINGS 2018
 Conservation Area: Yes - Tillington Terrace
 Listed Building: No

Applicant: The Governors per Morgan Carn Architects
 Blakers House 79 Stanford Avenue Brighton BN1 6FA

Public Consultation

Site notice: Yes
 Press advertisement: Yes - Conservation Area Amended Plans
 Neighbour Letters: No
 People objecting: 5
 Petitions of objection received: 1
 People in support: 7
 Petitions of support received: 0
 Neutral comments received: 1

Application status: Not delegated - Petition received

1. Site and Surrounding Area

The site comprises two boundary walls associated with Sacred Heart School. One area of wall faces Old London Road and the other faces Dudley Road. The Dudley Road elevation exhibits a traditional Flemish garden wall with bond brickwork and the Old London Road elevation has stone ashlar walls with raked brickwork copings. The existing walls around the school range in height from approximately 1.5m to 2m, set between brick piers of approx. 2.5m to 3m in height on Old London Road and the existing wall fronting Dudley Road currently ranges in height from 1.4 to 1.6m approximately. Front boundary treatment in the

area varies. On Dudley Road there are several examples of low boundary front walls and high hedging as well as fairly high retaining walls rising up to approximately 2m in height. On Old London Road, front boundary treatment consists of stone walls and timber fencing of up to 2m in height. Opposite the application site on Old London Road is a high retaining wall of approximately 2m to 3m in height.

To the immediate north of the site, and sitting between the two areas of wall, subject of this application, is Marianne House, a Grade II listed building. This is a 19th Century structure which was built by Lord North who was MP for Hastings and was the residence of his daughter, the noted botanical illustrator Marianne North. It was originally a House and Hotel but has been latterly converted to flats, although its original form has been preserved and the building retains many of its original architectural features; including its large sash windows, stucco frontage and large stone wall enclosure abutting the Old London Road.

The Sacred Heart School comprises more recent, probably early 20th Century development within the land surrounding Marianne House; along with modern housing that has been built in the grounds of the listed building. There are a variety of trees and open space associated with the school that is likely to have originally formed part of the wider grounds of Marianne House. Both of the walls to which this application relates enclose this wider area, they therefore fall within the setting of this designated heritage asset.

The works would take place in the Tillington Terrace Conservation Area. The area adjacent to the Old London Road Wall, to the south and west of the site, falls within the Old Town Conservation Area. The Tillington Terrace Conservation Area is predominantly comprised of 19th Century residential buildings of high architectural quality, in spacious grounds surrounded by mature vegetation. The Old Town Conservation comprises the medieval port of Hastings, with its many eclectic buildings. The Old London Road, on to which the site adjoins, is a busy thoroughfare through this Conservation Area.

Constraints

Groundwater Flooding

Flooding Surface Water 1 in 30

Archaeological Notification Area

Great Crested Newts Red Impact Risk Zone and within 50 metres of a Pond.

Within Tillington Terrace Conservation Area

Adjacent to Old Town Conservation Area

Grade II listed building Marianne House

2. Proposed development

The works involve the construction of security fencing above the two areas of wall that surround the school and face on to the Old London Road and Dudley Road. The applicant states that this is necessary to safeguard the children in the school, as there have been multiple break ins and examples of people climbing over the walls, with associated drug paraphernalia being found inside the school premises.

Initially anti climb mesh fencing was proposed. Following advice from the Conservation Officer, this was then changed to railings, and a further period of public consultation took place on the amended plans.

Finally, further detailed drawings were submitted showing ornate railing designs that replicate existing railings found on Old London Road and Dudley Road respectively, together with additional information showing how the railings would be fixed to the existing wall given concerns expressed about the impact of the proposals on mature trees on Dudley Road.

On the Old London Road frontage the railings would range in height from 50cm to 1m approximately giving a total height range, including the existing brick wall of between 2.4m to 2.6m.

On the Dudley Road frontage the railings would range in height from 0.9m to 1m approximately giving a total height, including the brick wall of between 2.3m to 2.5m approximately.

The application was supported by the following information:

- Design and Access Statement
- Heritage Statement

Relevant Planning History

HS/FA/08/00327 - Raise height of brick piers to pedestrian and vehicle entrances, installation of new metal gates and railings. Approved 2008. (Old London Road elevation).

There are numerous other historic planning applications for various works to the school.

Planning Policy

Hastings Local Plan – Planning Strategy 2014

Policy SC1 - Overall Strategy for Managing Change in a Sustainable Way

Policy EN1 - Built and Historic Environment

Hastings Local Plan – Development Management Plan 2015

Policy LP1 - Considering planning applications

Policy DM1 - Design Principles

Policy DM3 - General Amenity

Policy HN1 - Development affecting the Significance and Setting of Designated Heritage Assets (including Conservation Areas).

Revised Draft Local Plan

SP6 Enhancing the Historic Environment

Other policies/guidance

National Design Guide

National Planning Policy Framework (NPPF)

Paragraph 8 sets out the three overarching objectives of the planning system in order to achieve sustainable development. Those are: economic (by ensuring that sufficient land of the right type is available in the right places and at the right time to support growth and innovation); social (to support strong, vibrant and healthy communities, by ensuring that a sufficient number and range of homes can be provided to meet the needs of present and

future generations; and by fostering well-designed, beautiful and safe places, with accessible services and open spaces that reflect current and future needs and support communities' health, social and cultural well-being;); and environmental (to protect and enhance our natural, built and historic environment; including making effective use of land, improving biodiversity, using natural resources prudently, minimising waste and pollution, and mitigating and adapting to climate change, including moving to a low carbon economy)

Paragraph 9 advises that plans and decisions need to take local circumstances into account, so they respond to the different opportunities for achieving sustainable development in different areas.

Paragraph 11 of the NPPF sets out a presumption in favour of sustainable development. For decision-taking this means:

- c) approving development proposals that accord with an up-to-date development plan without delay; or
- d) where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date, granting permission unless:
 - i. the application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed; or
 - ii. any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole.

Paragraph 12 of the NPPF states that the development plan is the starting point for decision-making. Where a planning application conflicts with an up-to-date development plan, permission should not usually be granted. Local planning authorities may take decisions that depart from an up-to-date development plan, but only if material considerations in a particular case indicate that the plan should not be followed.

Paragraph 47 of the NPPF sets out that planning applications be determined in accordance with the development plan, unless material considerations indicate otherwise.

Paragraph 120 of the NPPF states, amongst other things, that decisions should promote and support the development of under utilised land and buildings, especially if this would help meet identified needs for housing where land supply is constrained and available sites could be used more effectively.

Paragraph 123 of the NPPF states that Local planning authorities should take a positive approach to applications for alternative uses of land which is currently developed but not allocated for a specific purpose in plans, where this would help to meet identified development needs. In particular, they should support proposals to:

- a) use retail and employment land for homes in areas of high housing demand, provided this would not undermine key economic sectors or sites or the vitality and viability of town centres, and would be compatible with other policies in this Framework; and
- b) make more effective use of sites that provide community services such as schools and hospitals, provided this maintains or improves the quality of service provision and access to open space.

Paragraph 124 of the NPPF states that planning decisions should support development that makes efficient use of land.

Paragraph 130 of the NPPF requires that decisions should ensure developments:

- Function well;
- Add to the overall quality of the area for the lifetime of that development;
- Are visually attractive in terms of:

- Layout
- Architecture
- Landscaping
- Are sympathetic to local character/history whilst not preventing change or innovation;
- Maintain a strong sense of place having regard to:
 - Building types
 - Materials
 - Arrangement of streets

in order to create an attractive, welcoming and distinctive places to live, work and visit.

- Optimise the potential of the site to accommodate an appropriate number and mix of development;
- create places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users; and where crime and disorder, and the fear of crime, do not undermine the quality of life or community cohesion and resilience. Paragraph 131 of the NPPF states that decisions should ensure new streets are tree lined, that opportunities are taken to incorporate trees elsewhere in developments.

Paragraph 134 of the NPPF states that development that is not well designed should be refused but that significant weight should be given to development that reflects local design policies and government guidance on design and development of outstanding or innovative design which promotes high levels of sustainability and raises the standard of design in the area, provided they fit with the overall form and layout of their surroundings.

Paragraph 135 of the NPPF seeks to ensure that the quality of an approved development is not materially diminished between permission and completion through changes to the permitted scheme.

Paragraph 183 of the NPPF states that decisions should ensure a site is suitable for its proposed use having regard to ground conditions and risks arising from land instability and contamination.

Paragraph 184 of the NPPF sets out that where sites are affected by land stability or contamination, responsibility for securing a safe development rests with the developer and/or landowner.

Paragraph 185 of the NPPF states that planning decisions should ensure that new development is appropriate for its location taking into account the likely effects (including cumulative effects) of pollution on health, living conditions and the natural environment, as well as the potential sensitivity of the site or the wider area to impacts that could arise from the development. In doing so they should: a) mitigate and reduce to a minimum potential adverse impacts resulting from noise from new development – and avoid noise giving rise to significant adverse impacts on health and the quality of life; b) identify and protect tranquil areas which have remained relatively undisturbed by noise and are prized for their recreational and amenity value for this reason; and c) limit the impact of light pollution from artificial light on local amenity, intrinsically dark landscapes and nature conservation.

Paragraph 194 of the NPPF states that In determining applications, local planning authorities should require an applicant to describe the significance of any heritage assets affected, including any contribution made by their setting. The level of detail should be proportionate to the assets' importance and no more than is sufficient to understand the potential impact of the proposal on their significance.

Paragraph 202 of the NPPF states that where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use.

3. Consultations comments

Conservation Officer - **No objection (Final scheme, October 2022)** The amendments shown on the amended drawings P-005 C Proposed Elevation(Old London Road) and P-006 C Proposed Elevation (Dudley Road) have addressed the concerns raised on the previous proposal. Therefore, should the development be carried out in accordance with the revised drawings, the recommendation would be to grant an approval.

Summary of previous objections

- The proposed short fence return to the Dudley Road elevation was unacceptable and the short return was to be omitted.
- The proposed fence support posts were to be shown on the proposed elevation drawings and to be a maximum 75mm.
- The fence material and sections were to be similar to the existing.

County Archaeologist - **No objection** - No Archaeological recommendations to make in this instance.

Borough Arboriculturalist - **No objection** - The proposed method of fence installation will not require excavation into the existing soil profile, no tree root disturbance would therefore be expected.

Nature Space - **No objection** - I am satisfied that if this development was to be approved, it is unlikely to cause an impact on great crested newts and/or their habitats due to the scale of the proposals.

4. Representations

A site notice was put up outside both areas of wall that are the subject of the proposed works, as well as a press notice. This was undertaken both at the time of the original planning application and after the design of the railings was amended.

Original Application

Petition received objecting to the development, with 23 signatures. Summary of issues being raised:

- The proposal will damage the Conservation Area and remaining gardens associated with Marianne House, and affect biodiversity by disrupting the local ecosystem and protected species.

3 objections received raising the following issues:

Principle of development:

- Proposal is not justified by evidence of intruders.
- Alternatives should be pursued instead of fencing, such as CCTV.

Character and Appearance (including heritage issues):

- Materials and general appearance would be inappropriate
- Adverse impact on Grade II listed Marianne House and garden
- Insufficient information provided to demonstrate the impact on heritage.

Other issue:

- Proposal would result in loss of access to the school ground.
- Concern that proposal will result in the continued loss of trees.
- Concern that fencing would be installed in areas outside that shown on the proposed plans.
- Concern that the works will adversely affect plants associated with Marianne House and Marianne Park.
- Insufficient information about the proposal.

3 letters of support raising the following issue:

- legitimate security and safeguarding issues outweigh any concerns about the appearance of the fencing.

Amended Plans consultation

5 Letters of objection raising the following issues:

Principle of development:

- Proposal is not supported by Crime data or other evidence showing a need for the proposed development.
- Alternatives have not been fully explored.
- Railings on Dudley Road are not necessary as the sharp drop should be sufficient to deter intruders.

Character and Appearance (including heritage):

- Railings on Dudley Road would be visually intrusive and out of keeping with nearby structures, rising to 2.4 metres in height in total.
- Railings on Dudley Road will be 1 metre above the existing brick wall; this is significantly taller than any equivalent walls or fences in the vicinity.
- Adverse impact on Conservation Areas and setting of Grade II listed Marianne House.

Other Issues:

- Proposal will require felling or cutting back of mature trees resulting in harm to the character and appearance of the area, and a loss of ecology and wildlife habitat.

5 letters of support raising the following issues:

- Comments from the objectors do not represent the views of all residents in Marianne Park.
- Consider that Conservation Issues have been addressed in revised plans.
- Works to trees would not be significant.
- Issues of vandalism and intrusion in to the school premises are significant.
- Planting and landscaping affected by the proposal is recent and not historic, as suggested by other respondents.

1 neutral comment received raising the following issues:

- Comments from the objectors are in a personal capacity and do not represent the views of all the residents of Marianne Park.

5. Determining Issues

The main planning issues in determining this application are the principle of the development, effect on character and appearance (including Conservation issues, effect on residential amenity, effect on trees and ecology).

a) Principle

The railings are being installed to provide additional security to the school, in line with contemporary expectations about safeguarding and child protection. Whilst it is noted that a number of objectors question the need for the works, it is not reasonable to require the school to justify this choice of security arrangement, if it causes no harm. The principle of the development is supported by planning policy.

b) Impact on Character and appearance of area (including heritage issues)

Following amendments during the course of the planning application, the railings now replicate the design of existing railings found along each elevation, in the area surrounding the site. In the case of Old London Road, these are round railings that already exist in the immediate vicinity of the site. On Dudley Road, they would be more ornate architecturally formed iron railings with finials, following the precedent set by those that are placed around Marianne Park on the Dudley Road elevation.

In each case the railings would be fixed to the original wall (with concrete footings in some cases) and then extend above it with slimline supports. Consequently, the railings would complement and preserve the architectural form of the original wall, in each case.

Any change in the height of the wall and railings compared with adjacent boundary treatments would appear incidental and would not detract from the special character and appearance of either Conservation Area. It is not possible to terminate the railings at the nearby brick pier associated with Marianne House as originally sought by the Conservation Officer as the pier in question falls outside the ownership of the applicant.

The total height of boundary treatment including railings, as noted in section 2 above, would not be unusually high. As there would be gaps in the railings, this additional height can be accommodated without the effect of enclosing the road.

On both elevations, the railings would blend in with the existing townscape. They are set well away from the Grade II listed building Marianne House. Because of the complimentary appearance and separation distance, they would not cause any harm to the setting of this heritage asset, nor any other listed buildings in the wider surrounding area.

The proposal therefore preserves the character and appearance of the Tillington Terrace Conservation Area, and the setting of the Old Town Conservation Area and nearby listed buildings. It is therefore acceptable in Conservation and Design terms.

c) Residential Amenity

The railings are set a sufficient distance away from existing residential properties to avoid any loss of residential amenity, including through any potential loss of outlook given the height of the railings. There is no conflict with the development plan, in this respect.

d) Trees

It is noted that there are mature protected trees on the Dudley Road Elevation close to the wall and that installing the railings will require small amounts of vegetation to be cut back.

In terms of mature trees, the applicant has confirmed that supports will be fixed to the wall in close proximity to these trees and this is shown on the amended plans. Consequently, there is no risk that there will be harm to the rooting environment of these trees. The Borough Arboriculturalist has advised that this arrangement is acceptable.

The proposal is therefore acceptable in terms of its effect on trees.

e) Biodiversity, wildlife and ecology.

The works involve the construction of railings above existing walls. Given the minor nature of these works and their limited overall height and impact at ground level, any associated removal of vegetation would be insignificant. There would be no material impact on plants, wildlife, flora and fauna, including any protected species, as a direct consequence of granting planning permission for these works.

The railings are being constructed within 50 metres of a pond and in a Red Impact risk zone in relation to Great Crested Newts. However, for the reasons set out above, given the minor nature of the proposed works it is unlikely to have any effect on Great Crested Newts and this position is reflected in the consultation response received from Naturespace. An informative has been added to the decision advising of the requirements of wildlife legislation which applies during the course of construction works.

f) Other issues raised in public consultation.

The works are limited to the two elevations shown on the approved plans. The fear of future works occurring at the site is not a valid ground to withhold planning permission. The matter of access rights that may have been granted to the residents of Marianne Park to the school is a private matter that has no bearing on this decision.

6. Conclusion

These proposals comply with the Development Plan in accordance with Section 38 (6) of the Planning and Compulsory Purchase Act 2004 which states:

"If regard is to be had to the development plan for the purpose of any determination to be made under the Planning Acts the determination must be made in accordance with the plan unless material considerations indicate otherwise".

The Human Rights considerations have been taken into account fully in balancing the planning issues.

7. Recommendation

Grant Full Planning Permission subject to the following conditions:

1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission.
2. The development hereby permitted shall be carried out in accordance with the following approved plans:

P-001; P-002A; P-003B; P-004A; P-005C; P-006C.

Reasons:

1. This condition is imposed in accordance with the provisions of Section 91 of the Town and Country Planning Act 1990.
2. For the avoidance of doubt and in the interests of proper planning.

Notes to the Applicant

1. Failure to comply with any condition imposed on this permission may result in enforcement action without further warning.
2. Statement of positive engagement: In dealing with this application Hastings Borough Council has actively sought to work with the applicant in a positive and proactive manner, in accordance with paragraph 38 of the National Planning Policy Framework.
3. The applicant is reminded that, under the Conservation of Habitats and Species Regulations 2017 (as amended) and the Wildlife and Countryside Act 1981 (as amended), it is an offence to: deliberately capture, disturb, injure or kill great crested newts; damage or destroy a breeding or resting place; deliberately obstructing access to a resting or sheltering place. Planning consent for a development does not provide a defence against prosecution under these acts. Should great crested newts be found at any stages of the development works, then all works should cease, and Natural England should be contacted for advice.

More details on the district licensing scheme can be found at www.naturespaceuk.com

Contact details: info@naturespaceuk.com

Officer to Contact

Mr Neil Holdsworth, Telephone 01424 783275

Background Papers

Application No: HS/FA/22/00335 including all letters and documents