
Appeal Decisions

Site visit made on 10 April 2017

by J E Tempest BA(Hons) MA PGDip PGCertHE MRTPI IHBC

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

Decision date: 22 May 2017

Appeal A: Ref: APP/Y3940/W/16/3162854

Burton Hill House, Burton Hill, Malmesbury, Wiltshire SN16 0EL

- 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 Jason Bannister against the decision of Wiltshire Council.
 - The application Ref 16/08285/FUL, dated 24 August 2016, was refused by notice dated 17 October 2016.
 - The development proposed is new boundary wall and entrance gates.
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Appeal B: Ref: APP/Y3940/Y/16/3163023

Burton Hill House, Burton Hill, Malmesbury, Wiltshire SN16 0EL

- The appeal is made under section 20 of the Planning (Listed Buildings and Conservation Areas) Act 1990 against a refusal to grant listed building consent.
 - The appeal is made by Mr Jason Bannister against the decision of Wiltshire Council.
 - The application Ref 16/08736/LBC, dated 24 August 2016, was refused by notice dated 17 October 2016.
 - The works proposed are new boundary wall and entrance gates.
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Decisions

1. Appeal A is dismissed.
 2. Appeal B is allowed and listed building consent is granted for new boundary wall and entrance gates at Burton Hill House, Burton Hill, Malmesbury, Wiltshire SN16 0EL in accordance with the terms of the application Ref 16/08736/LBC dated 24 August 2016 and the plans submitted with it subject to the following conditions:
 - 1) The works authorised by this consent shall begin not later than 3 years from the date of this consent.
 - 2) Prior to the commencement of the works hereby permitted, details of the following shall be submitted to and approved in writing by the Local Planning Authority and the works shall be carried out in accordance with the details thereby approved: (i) cross sections showing the width of the wall (ii) scaled drawings showing details of the gates, gatepiers and wall coping stones.
 - 3) No works shall take place until a sample panel of the materials to be used in the construction of the wall shall have been prepared on site for inspection and approved in writing by the local planning authority. The sample panel shall be at least 1 metre x 1 metre and show the proposed stone including coursing, mortar and pointing technique to be used in the
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works. The works shall be carried out in accordance with the approved sample which shall not be removed from the site until completion of the works.

Preliminary Matter

3. A timber fence has been erected on the appeal site partially along the alignment of the proposed wall. The Council advise this fence does not have planning permission or listed building consent. I have not taken the fence into account in reaching my decision.

Main Issues

4. In respect of both appeals these are: whether the proposal would preserve the listed building known as Burton Hill House and its setting and any features of special architectural or historic interest it possesses.
5. In respect of the application for planning permission a further main issue is the effect of the proposed development on trees within the site.

Reasons

Whether the proposal would preserve the listed building and its setting

6. Burton Hill House is a Grade II listed building, dating from the 1840s. Listed in 2007 when the building was used as a school, the formal listing includes a detailed description of the exterior and interior of the main building, built in the Tudor Gothic style to designs by C R Cockerell. The reasons stated for the designation, and so the main contributors to the significance of the building, are stated as it being a substantially intact country house of the 1840s designed by one of the outstanding architects of his day for his brother, a good example of the Tudor Gothic style, showing the adaptation of traditional forms to create a small-scale gentleman's residence. The survival of internal features and sophisticated planning as well as the added interest of later 19C alterations are also cited. The listing description does not mention the lodge or other subsidiary buildings, however, together with the boundary walls they form part of the setting of the principal listed building.
7. There is an existing gate pier attached to the south side of The Lodge paired with a gate pier on the northern edge of the boundary wall. There are no gates attached to these piers. The access from the A429 at this point serves a number of properties including Burton Hill House, although the land now shown to be in the same ownership as Burton Hill House does not include The Lodge or the access point onto the A429. There is a second point of access further south on the A429 serving Burton Hill House.
8. The proposed wall and gates would align approximately with the extent of the grounds of Burton Hill House and span between the corner of the 20C former chapel and the boundary wall along the edge of Burton Hill. The proposed wall would join the existing wall south of the existing gate pier and splayed wall to the entrance and so be set away from the existing entrance. The proposed stone wall and gate piers would be appreciably lower in height than the existing boundary wall. The difference in height and the simple coping stone top of the proposed wall would therefore clearly distinguish the proposed wall from the historic roadside boundary wall.

9. The position, width and design of the metal gates would afford a degree of visibility into the Burton Hill House grounds such that the house would not appear isolated from The Lodge. A limited view from the south-west facing window of The Lodge through the proposed gates would also be maintained. Whilst the appellant's evidence includes general points regarding lodges and country houses, and the Council refer to the position of The Lodge in relation to the principal house, there is no substantive evidence to show that the historic role of The Lodge in relation to Burton Hill House was principally one dependent upon inter-visibility.
10. Stone walls are clearly a significant feature within the locality and also within the immediate environs of Burton Hill House. I also noted evidence of recent development to the north of Burton Hill House. Taking all these matters into consideration, the degree of visual separation which the proposed wall would create between the principal house and former subsidiary buildings would not harm the significance of the listed building or its setting. The proposed wall, broken by the gateway with its metal gates, would be of sufficiently low height to maintain the appreciation of the historic relationship within the group of buildings.
11. Consequently, subject to conditions to secure control over the detailed appearance of the works, I am satisfied that there would be no harm to the significance of the listed building. The proposals would preserve the listed building and its setting and so meet the expectations of Sections 16(2) and 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990. The works would also satisfy Section 12 of the National Planning Policy Framework with regard to the conservation of designated heritage assets. I find that the proposed works and this element of the development would comply with Core Policies 57 and 58 of the Wiltshire Core Strategy (CS) adopted in January 2015 inasmuch as it would be sympathetic to and conserve the historic building which is a designated heritage asset.

Effect of the development upon protected trees

12. I am provided with a copy of a Tree Preservation Order (TPO) relating to the site and numerous trees within it. Included in the TPO are a group of Yew trees, listed as G7, on the south side of The Lodge and access, parallel with the roadside wall. These trees are readily visible from the road. It was clear from what I observed during my site visit that the ground level on the west side of the wall and within the appeal site is appreciably higher than that on the east side of the wall. There is also a change in level between the ground around the trees and land immediately to the north.
13. Given the position of the proposed wall in relation to the trees and roadside boundary wall and the higher ground levels under the tree canopies, the effect of the proposals upon the future health of the trees in the immediate area of the proposed wall is unclear. The Council has provided a copy of a tree survey report prepared by ACD Arboriculture for the appellant and dated 31 July 2015. The appeal site forms part of a larger area (Area 4) defined in that report which runs alongside the whole of the road boundary. Whilst this report outlines general works of a remedial nature, it does not address the wall proposals.
14. I have considered whether this is a matter which could be addressed by condition. However, given the ground levels and the proximity of the proposed wall to the protected trees, I consider there is insufficient information to be

satisfied that the long term health of the protected trees can be secured by means of conditions.

15. The development would therefore not comply with CS Core Policy 57 subsections (i) and (ii) which, amongst other matters, require development to be accompanied by appropriate information to demonstrate that it would respond positively to its landscape setting and retain existing important landscaping and features including trees. Accordingly, I find that the appeal in relation to the refusal of planning permission must fail on this basis.

Conclusions and Conditions

16. For the reasons given above and having taken into account all matters raised, I conclude that the appeal against the refusal of planning permission should be dismissed and that the appeal against the refusal of listed building consent should be allowed.
17. The Council do not suggest conditions in relation to listed building consent but provide suggested conditions in the event of planning permission being granted. Conditions relating to the listed building consent are necessary to confirm details of the wall and gates, including the construction of a sample panel to show details of the stone and its coursing and joints. I have adjusted the wording of the Council's relevant suggested conditions to refer to works and, where necessary, to secure precision and enforceability.

J E Tempest

INSPECTOR