
Appeal Decision

Site visit made on 5 August 2020

by John Morrison BA (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 2 September 2020

Appeal Ref: APP/V0510/W/19/3242350

Upton House, 2 Ely Road, Littleport CB6 1HQ

- 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 Brian Nearney against the decision of East Cambridgeshire District Council.
 - The application Ref 19/00973/FUL, dated 2 July 2019, was refused by notice dated 9 September 2019.
 - The development proposed is the installation of maintenance gates and dropped kerb.
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Decision

1. The appeal is dismissed.

Procedural Matter

2. I have taken the description of development from the appeal form which is commensurate with that shown on the Council's decision notice. It is a more concise and precise description of the development to which the appeal relates. It does not fundamentally change the development proposed. I have therefore proceeded on this basis.

Main Issues

3. There are two main issues. These are the effect of the proposed development on a) the character and appearance of the area including trees; and b) highway safety.

Reasons

Character and Appearance

4. The appeal site is formed by the building and grounds to Upton House which itself is a large detached dwelling set back from the road. It's largely obscured from the street scene, set behind some mature trees forming the front boundary. The proposed development would locate a set of side hung timber gates adjacent the existing entrance to the grounds, off Ely Road, as part of the drop kerb proposals. They would be inserted into a new gap in the brick wall that forms the rest of the front boundary. The wall is continuous along the back edge of the footway save for the existing gap which is formed by metal entrance gates.
5. The existing front boundary wall does vary in height in places but nonetheless forms a key and largely unbroken feature of the street scene, enclosing as it

does the front section of the grounds of Upton House. The building may not be listed or the site in a Conservation Area, but this should not downplay the positive contribution the front wall makes to the setting of what remains a good quality and substantially scaled imposing period dwelling. The wall already has one gap which, as I have said, hosts the main entrance gates. The scale and design of which is befitting of the building's presence. This and how Upton House can be glimpsed through them and the entrance planting makes them a focal point of the elevation of the site as it faces the street.

6. The creation of a second gap in the wall would break up the continuous nature of it along the back edge of the highway. By virtue of the design, size, siting and proposed materials the new gates would be a highly noticeable and incongruous feature of the front boundary, detracting as they also would from the existing main entrance to Upton House, confusing and cluttering the street scene. I note there are high sided timber gates in the Ely Road facing boundary to the neighbouring dwelling that fronts Upton Lane. A boundary that also includes substantial close boarded timber fencing. This is however clearly a more modern dwelling and the gates in question clearly part of an almost continuous all timber boundary in itself. In essence, they are visually distinct from the front boundary of Upton House.
7. I note the appellant's offer to either reduce the size of the opening or remove the gates entirely from the appeal scheme and whilst these would go some way to reducing the harm the proposed development would cause, a form of gates as a new entrance and the fresh and still substantial gap in the front boundary wall would remain which, as I have explained, would be harmful in themselves. The appellant also explains that the existing wall is structurally unsound and liable to collapse although I have seen no corroborative evidence to this effect. In any case, such a situation would lead to repair being required and not necessarily give justification for a harmful replacement.
8. In regard to the effect of the proposed development on trees, I note the appellant has undertaken survey work and proposes a supporting structure as an underlayer to the new driveway surface that the dropped kerb and new entrance gates would serve. Theoretically, this structure and the method of its construction would prevent compaction of the various root systems and allow a hard surface to wind through the trees, limiting the effect thereon, and allowing water etc to permeate. The proposed driveway would run through the root protection areas of a number of mature specimens which not only contribute significantly to the landscaped setting of Upton House but are also, in some cases, subject to a preservation order.
9. Whilst I acknowledge the benefits of such methods, I do have concerns about just how close to a number of trees the driveway would be. In some places it would run close to the trunk and I am struggling to see how one could dig and construct even a supported and protective driveway base layer without damaging or affecting the larger structural tree roots. Also, it being sufficiently clear that the laying of the driveway would still be in some way ground invasive, it has the potential to affect the smaller oxygenating roots that splinter in a web like fashion just under the top soil level. With so many trees within close proximity and the area of the proposed driveway, I perceive there would be quite a large and expansive network of such roots that have the potential to be affected.

10. The existing trees, as well as those protected by a preservation order, contribute much to both the street scene and the setting of Upton House. They are large, mature and prominent in the street scene and therefore have strong public amenity value.
11. As a result of the above factors, the appeal scheme would be harmful to the character and appearance of the area. Such that it would conflict with Policies ENV1 and ENV2 of the Local Plan¹. Amongst other things, these policies seek to ensure that new development protects, conserves and where possible enhances the pattern of distinctive traditional features such as individual and woodland trees, hedgerows and walls and is generally of a high quality design that complements local distinctiveness.

Highway Safety

12. The crux of the Council's concerns in regard to this main issue is the location of the gates, almost at the back edge of the highway, and how their operation for an entering vehicle would involve waiting in the vehicular carriageway or blocking the pedestrian footway. Both of which would be both a safety hazard and an obstruction which has the potential to affect the free flow of traffic on what is evidently a busy main road. I am inclined to agree with this assessment. Both situations have the potential to adversely affect the safe functioning of the public highway for both vehicles and pedestrians.
13. I have mentioned above that the appellant has suggested removal of the gates and while this may eliminate any waiting in the carriageway or blocking of the footway visual harm would remain as I have explained above. The appellant has also suggested they could set the gates back into the site which could have a similar effect. However, and for the site to be secure, I see this measure would likely involve some flanking structure either side and there is no design of such before me to consider. I would therefore reserve a detailed assessment of such a solution, albeit still mindful of the potential for any new structure to need foundations which could be an issue with regard to the aforementioned trees. The appellant does suggest the usage of the access would be infrequent which would no doubt reduce the number of instances of potential problems but not eliminate them to the point the access would be acceptable. The amount of use of the gates would further be a very difficult thing to enforce going forwards.
14. The scheme as it was presented to me in this appeal would, for the reasons I have mentioned, reduce the safe functioning of the highway for vehicular and pedestrian users. Such that it would conflict with Policy COM7 of the Local Plan. Amongst other things, this policy seeks to ensure that safe and convenient access is provided to the highway network through new development.

Conclusion

15. For the reasons I have given, the appeal is dismissed.

John Morrison

INSPECTOR

¹ East Cambridgeshire Local Plan 2015