



Appeal Decision

Site visit made on 20 September 2022

by Alexander O'Doherty LLB (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 11 January 2022

Appeal Ref: APP/Y3940/W/22/3296581

Church House, Church Lane, Kington Langley, Chippenham SN15 5NR

- 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 M. Allenby-Smith against the decision of Wiltshire Council.
 - The application Ref PL/2021/05537, dated 26 May 2021, was refused by notice dated 26 November 2021.
 - The development proposed is formation of a new residential access; close up existing vehicular access (retaining pedestrian access).
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Decision

1. The appeal is allowed and planning permission is granted for formation of a new residential access; close up existing vehicular access (retaining pedestrian access) at Church House, Church Lane, Kington Langley, Chippenham, SN15 5NR in accordance with the terms of the application, Ref PL/2021/05537, dated 26 May 2021, and subject to the conditions set out in the attached schedule.

Application for costs

2. The appellant made an application for costs. This application for costs has been dealt with in a separate decision.

Main Issue

3. The main issue in this appeal is whether the proposed development would preserve or enhance the character or appearance of the Kington Langley Conservation Area.

Reasons

4. The appeal site comprises Church House, a large detached dwelling, and the grounds which surround it. The site adjoins Church Lane in Kington Langley, a charming village which contains a number of historic buildings.
5. The site is within the Kington Langley Conservation Area (conservation area). The Planning (Listed Buildings and Conservation Areas) Act 1990 (as amended) provides at s72(1) that with respect to any buildings or other land in a conservation area, special attention shall be paid to the desirability of preserving or enhancing the character or appearance of that area.
6. The significance of the conservation area, as a whole, as a designated heritage asset is derived predominantly from its spacious, open, and fairly undeveloped identity, with the area exhibiting a sporadic pattern of development and a common occurrence of mature hedge boundaries which contribute to the verdant nature of the area. The site contributes to the significance of the

conservation area primarily by the presence of hedgerow and trees which stretch along Church Lane for some length.

7. The proposed new residential access would be situated in the same place as the current field access. I observed that this field access contains a wooden gate, slightly set-back from the highway, and that, due to the presence of this gate, there is already a noticeable and fair-sized break in the run of hedgerow along Church Lane in this location. As such, the proposal would likely result in a minimal amount of additional hedgerow lost in this location.
8. Moreover, the existing well-established vehicular access to Church House, opposite the Church of Saint Peter, would be closed with a bank of laurel hedge, which would match the existing array of hedgerow in that location, and a pedestrian gate would be installed. Hence, the impact of any hedgerow lost near the field access would be significantly mitigated by the new hedgerow to be planted at the existing vehicular access to Church House.
9. The proposal would introduce a new tarmac apron, which would adjoin Church Lane. Although this would result in a more formalised and prominent entrance than the unobtrusive field access which presently exists, I observed that a number of similarly-sized entrances with deep tarmac aprons leading to gravel drives are present within the conservation area. Indeed, several are present along the stretch of Church Lane which leads to Day's Lane, close to the site. Furthermore, the proposed access gates and crushed stone track would be set-back behind the long line of hedgerow which stretches along either side of the access, meaning that they would not be prominent features in the street scene.
10. Consequently, the proposal as a whole would maintain the quality of the area and would be sensitive to its character and appearance, as required by paragraph 6.138 of the Wiltshire Core Strategy (adopted 2015) (Core Strategy). I note that both the Council and Kington Langley Parish Council have referred to a 2017 application for the same site¹, but that application did not involve the stopping up of the existing vehicular access to Church House, which is an important difference compared with the appeal proposal. As such, my findings above remain unchanged.
11. I therefore find that the proposed development would preserve the character and appearance of the conservation area. It would comply with Policies 57 and 58 of the Core Strategy which collectively provide that, amongst other things, designated heritage assets and their settings will be conserved, and where appropriate enhanced in a manner appropriate to their significance, including the special character or appearance of conservation areas. It would also comply with chapter 16 of the National Planning Policy Framework (the Framework), which seeks to conserve and enhance the historic environment.

Other Matters

12. It is common ground that the proposal would not affect the setting or significance of the Church of Saint Peter, or the Church Farmhouse, which are both Grade II listed buildings. I have no evidence before me that points to a different conclusion. This is a neutral matter, which does not alter my findings on the main issue in this appeal.

¹ 17/07460/FUL

13. The Council has queried whether a need to alter the existing access arrangements exists and the appellant has mentioned the planting of 2 or 4 trees, but considering that I have found on the main issue (above) that the proposal as stated on the application form would not result in harm to the significance of the conservation area, these are not matters which I am required to explore further. Similarly, taking account of paragraph 202 of the Framework and my findings on the main issue, any public benefits of the proposal do not fall to be considered.

Conditions

14. I have had regard to the conditions suggested by the Council and the appellant. I have considered them against the advice on conditions set out in the Framework and the Planning Practice Guidance (PPG). Where necessary, I have made minor changes to the wording of the proposed conditions, to ensure that the conditions meet the 6 tests provided at paragraph 56 of the Framework.
15. Conditions are necessary, in the interests of clarity and enforceability, setting out the timescale for the commencement of development and the approved plans respectively.
16. As the proposed development adjoins a highway, a condition is necessary requiring any gates to be set back from the edge of the carriageway and to open inwards only, to prevent unacceptable impacts with respect to highway safety. A figure of 4.5 metres has been stated in the condition, in line with the distance for gates to be set back from the edge of the carriageway given in paragraph 7 of the appellant's letter to the Council dated 26 May 2021, which would be sufficient to meet the aims of this condition.
17. A condition is necessary requiring the existing pedestrian / vehicular access relating to Church House to be stopped up and its use permanently established as a pedestrian access, to prevent unacceptable impacts with respect to highway safety which potentially could arise if 2 vehicular accesses onto the highway were both in use. Whilst the appellant has suggested an implementation period of 3 months following the completion of the approved new residential access, considering that the works involved in stopping up the existing vehicular access would not likely be significant, and the importance of ensuring the safety of road users (including any vulnerable road users), I consider that a period of one month (as suggested by the Council) would be appropriate.
18. To ensure that the character and appearance of the conservation area is preserved, a condition is necessary relating to the planting and maintenance of a new section of laurel hedge at the existing vehicular access. As this condition calls for remedial action in the event of damage to the hedge, it is not necessary to specify weeds, vermin, or stock in the condition.
19. The Council's proposed condition relating to external surfaces is not necessary, as the submitted application form does not contain any details relating to materials, and sufficient detail thereof is shown on the approved plans which are covered by a separate condition.
20. Considering the fairly small scale of the proposal, that the creation of hard standing is a fundamental component of it, and that a field access is already

present on site, it is not necessary for any condition to require that all hard landscaping shall be carried out prior to the use of the development or in accordance with a programme to be agreed in writing with the Local Planning Authority.

21. The Council has suggested wording for an informative note. However, as the informative note relates to licencing rather than planning matters, it would not be reasonable to impose a planning condition relating to this matter.
22. As I have found on the main issue that the tarmac apron as shown on the submitted plans would be acceptable in this location, a condition relating to the surfacing of the bellmouth, suggested by the appellant, would not be necessary.

Conclusion

23. For the reasons given above, having considered the development plan as a whole, the approach in the Framework, and all other relevant material considerations, I conclude that the appeal should be allowed.

Alexander O'Doherty

INSPECTOR

Conditions Schedule

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans and documents: Design and Access / Planning Statement (cover letter dated 26 May 2021 to Wiltshire Council), Site Plan (Allenby-Smith Map), Location Plan (JH-AS-01), Block Plan (JH-AS-02), Proposed access details (JH-AS-03).
- 3) Any gates shall be set back 4.5 metres from the edge of the carriageway, such gates to open inwards only. The gates as constructed shall be retained thereafter.
- 4) The existing pedestrian / vehicular access relating to Church House, Church Lane, Kington Langley shall be stopped up and its use permanently established as a pedestrian access within one month of the completion of the approved new residential access, as indicated on the Block Plan (JH-AS-02). The existing vehicular access shall remain closed to vehicles thereafter.
- 5) All planting, seeding or turfing relating to the new section of laurel hedge (as indicated on the Block Plan (JH-AS-02)) shall be carried out in the first planting and seeding seasons following the completion of the development; and any part of the laurel hedge which within a period of 5 years from the completion of the development dies, are removed, or become seriously damaged or diseased, shall be replaced in the next planting season with a hedge of similar size and species.