



Appeal Decision

Site visit made on 28 September 2023

by Lewis Condé BSc (Hons), MSc, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 29 November 2023

Appeal Ref: APP/Y3940/W/23/3316065

Withy Tree Cottage, Knowle, Pewsey, Wiltshire, SN9 5JH

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a grant of planning permission subject to conditions.
- The appeal is made by Mr Joe Stewart against the decision of Wiltshire Council.
- The application Ref PL/2022/05942, dated 2 August 2022, was approved on 16 November 2022 and planning permission was granted subject to conditions.
- The development permitted is described as *'Replacement of existing extension on east/side elevation and conservatory on north/rear elevation with part two-storey side and part single-storey rear extension, together with associated alterations and formation of parking'*.
- The condition in dispute is No 6 which states that: *'The surfaces of the slate roof hereby permitted shall be surfaced in natural slate and no other type of slate. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any Order revoking or re-enacting or amending that Order with or without modification), these natural slate surfaces shall thereafter be retained as such, and further the chimney structure and the thatch roof shown on submitted drawing no. P002 B shall be retained as such in perpetuity'*.
- The reason given for the condition is: *'In the interests of preserving the significance of the non-designated heritage asset, and in the interests of visual amenity and the character and appearance of the area'*.

Decision

1. The appeal is allowed and planning permission is granted for the replacement of the existing extension on east/side elevation and conservatory on north/rear elevation with part two-storey side and part single storey rear extension, together with associated alterations and formation of parking at Withy Tree Cottage, Pewsey, SN9 5JH in accordance with application, Ref PL/2022/05942, dated 2 August 2022, without compliance with Condition 6 previously imposed, but subject to the conditions in the attached schedule.

Preliminary Matters

2. Although this appeal is technically allowed, the effect of the decision is for the condition originally imposed by the Council to be more precise rather than removing its restrictions.

Background and Main Issues

3. Planning permission (ref: PL/2022/05942) was granted for a part two-storey and part single storey extension to Withy Tree Cottage. This included a condition that controlled the finishing materials to the roofs of the proposed extensions, whilst also removing permitted development rights associated with the existing building's roof/chimney. The Council considers that the condition is necessary to protect the character and appearance of the host property, which

it deems to be a non-designated heritage asset. The appellant, however, objects to the condition deeming it to be unreasonable.

4. The main issue, therefore, is whether the condition is reasonable or necessary in the interest of the character and appearance of the host property and surrounding area.

Reasons

5. Withy Tree Cottage is one half of a pair of traditional, two-storey, semi-detached cottages. It lies within Knowle, a rural hamlet containing a small number of residential properties.
6. Withy Tree Cottage is formed of painted brick and block walls under a thatched roof and has been subject to significant alterations in the past, including a two-storey extension, the addition of a conservatory as well as the installation of modern UPVC windows. The adjoining semi-detached dwelling has also been significantly altered including through a sizeable extension to the side and rear that has a slate roof.
7. The main parties dispute whether the appeal property constitutes a non-designated heritage asset (NDHA). Planning Practice Guidance (PPG) defines a NDHA as “*buildings, monuments, sites, places, areas or landscapes identified by plan-making bodies as having a degree of heritage significance meriting consideration in planning decisions, but which do not meet the criteria for designated heritage assets*”.
8. The PPG further recognises that a substantial majority of buildings have little or no heritage significance, with only a minority having enough significance to merit identification as NDHA.
9. The Council has not formally identified the appeal building as a NDHA either through its Local Plan or a local list. Although there is encouragement within the PPG this is not a necessary requirement to have the status of a NDHA.
10. From my site visit and the evidence before me, it appears that Withy Tree Cottage dates to the late 18th or early 19th Century and is likely to have formed part of three pairs of similar designed cottages developed around the same period. As indicated the dwelling has undergone substantial change, including its enlargement during the late 20th century and associated unsympathetic additions. Despite this, historic elements of the building remain and can be appreciated, most notably its thatched roof and chimney. Indeed, I find these elements to be essential to conveying the age and historic nature of the property.
11. I appreciate that there may be many other thatched roof properties within the county, many of which would be of a higher quality than the appeal dwelling. Nonetheless, I find that the thatched roof that was proposed to be retained (e.g. to the west of the chimney stack) still has significant aesthetic value that provides a positive contribution to the appearance of the appeal property, whilst also adding to the rural character of the area.
12. I also appreciate that the appeal building may offer little group value given the physical alterations that have taken place to it and adjacent cottages, whilst it may also not possess other strong aspects of historical significance, including historical associations with architects/designers, nor archival interest.

Nonetheless, I consider that the building retains sufficient heritage significance to warrant status as a non-designated heritage asset. The significance derives from the property's age, architectural features, and aesthetic interest, notably the core of the property and its thatched roof form.

13. Given that the roof form is fundamental to the significance of the property, I find that a condition that controls the precise detailing of the roofs of the proposed extension, and alterations to the original roof, to be both reasonable and necessary as part of the approved development. This is to protect the character and appearance of the NDHA, and by consequence the character and appearance of the surrounding area. Such controls would ensure that the development complied with Core Policies 57 and 58 of the Wiltshire Core Strategy (adopted 2015). These policies, amongst other matters, seek to ensure development is of a high-quality design, that respects local distinctiveness, and protects and enhances the historic built environment.
14. This is not to say that alternative roofing materials could not be used in the extension or that the thatch roof could not be replaced by an alternative arrangement. However, permission should be sought to agree the nature of the proposed changes.
15. Notwithstanding the above, the Council acknowledges that the use of the term 'in perpetuity' within Condition 6 is somewhat imprecise and exceeds the level of protection that is necessary (e.g. there would be no requirement to retain the roofs as proposed should the remainder of the development/building no longer exist). As such, it currently does not meet the tests of a condition outlined at paragraph 56 of the National Planning Policy Framework (the Framework), or as detailed within the PPG. I therefore agree with the Council's suggested re-wording of the condition to instead refer to the need for the development to be retained as detailed in the approved drawing for 'the lifetime of the development'.

Other Matters

16. The appellant has raised concerns that the thatch roof presents a greater fire risk than other materials. Be that as it may, I do not find this to be sufficient justification to warrant removal of the restrictions imposed by the condition.

Conditions

17. Allowing the appeal grants a new planning permission. The PPG advises that planning permission cannot be granted under Section 73 to extend the time limit within which a development must be started, accordingly a condition is attached to clarify that permission must commence within the time-limit of the original permission.
18. The guidance in the PPG also makes clear that decision notices for the grant of planning permission under section 73 should also restate the conditions imposed on earlier permissions that continue to have effect. As I have no information before me about the status of the other conditions imposed on the original planning permission, I shall impose all those that I consider remain relevant. In the event that some have in fact been discharged, that is a matter which can be addressed by the main parties.

19. Conditions to ensure compliance with the approved plans and submitted details of windows and doors are necessary for the avoidance of doubt and in the interests of proper planning.
20. A condition requiring that the development be undertaken in accordance with a construction management plan is reasonable and necessary in the interest of highways safety and to protect the living conditions of neighbouring residents. Conditions requiring that the proposed parking spaces are appropriately surfaced and made available prior to the development being brought into use (and thereafter maintained) are also necessary in the interest of highway safety.
21. A condition requiring compliance with the recommendations of the submitted Protected Species Survey is needed in the interest of biodiversity.
22. A condition restricting the materials for use on the roofs of the proposed extensions, as well as removing permitted development rights in relation to the existing thatch roof is reasonable and necessary for the reasons that have been outlined above.
23. Conditions requiring the installation of obscure glazing in an eastern elevation window, as well as the removal of permitted development rights for new openings into the eastern and western elevations of the extension are necessary in the interest of the living conditions of neighbouring residents.

Conclusion

24. For the reasons given above, I find that the purpose of Condition 6 is reasonable and necessary in the interest of the character and appearance of the NDHA and surrounding area. However, it is also necessary for the precise wording of Condition 6 to be amended to reflect the tests of the conditions. The appeal is therefore technically allowed, and Condition 6 of has been removed, however, it has been replaced by a more accurate condition that continues to control the roof materials for the lifetime of the development.

Lewis Condé

INSPECTOR

Schedule of Conditions

1. The development hereby permitted shall begin not later than 3 years from the date of the original permission (ref: PL/2022/05942) (i.e. 16 November 2022).
2. The development hereby permitted shall be carried out in accordance with the following approved plans and documents:
 - Application form
 - Existing and Proposed Site Plans – P003 B
 - Location Plan; Existing Floor Plans, Elevations and Sections – P001 B
 - Proposed Floor Plans, Elevations and Sections – P002 B
 - Thatch Detail – P501
 - British larch cladding Technical specification – Vastern Timber
 - Protected Species Survey – prepared by Malford Environmental Consulting dated 5th April 2021
 - Contents of the Email from Joe Stewart (Applicant) sent 20 October 2022 15:07
 - Golpla Grass Reinforcement and Gravel Retention System – Geosynthetics
 - Golpla Solutions – Pre-Grown / Grass Reinforcement / Gravel Retention / Erosion Control (Geosynthetics)
 - Product Data Sheet: Eco-render Natural Finish – Lime Green Products Ltd 9/09/2014
 - Timber Windows + Doors Uniclass L411+L413+L2228:N352:P – green building store February 2021
3. Notwithstanding any detail otherwise submitted, the material and joinery details of the doors and windows hereby permitted shall be in accordance with the contents of the following:
 - Email from Joe Stewart (Applicant) sent 20 October 2022 15:07, and
 - Timber Windows + Doors Uniclass L411+L413+L2228:N352:P – green building store February 2021.
4. No development shall commence on site (including any works of demolition) until a Construction Management Statement, together with a site plan, has been submitted to and approved in writing by the Local Planning Authority. The submitted details shall include the following:
 1. the parking of vehicles of site operatives and visitors;
 2. loading and unloading of plant and materials;
 3. storage of plant and materials used in constructing the development;
 4. the erection and maintenance of security hoarding where appropriate;
 5. wheel washing facilities;
 6. measures to control the emission of dust and dirt during construction;
 7. a scheme for recycling/disposing of waste resulting from demolition and construction works;
 8. measures for the protection of the natural environment;
 9. hours of construction, including deliveries; and
 10. pre-condition photo survey.

Thereafter, the approved details shall be adhered to throughout the demolition and construction periods. The development shall not be carried out otherwise than in accordance with the approved details without the prior written permission of the Local Planning Authority.

5. The development shall be carried out in strict accordance with the contents of section 5 – Enhancement for Roosting Bats – on page numbered 6 of the submitted Protected Species Survey prepared by Malford Environmental Consulting dated 5th April 2021, including the installations in accordance with these contents of the two capping tiles and void underneath them, and the three lifted cladding boards. Thereafter, the installed capping tiles and void underneath them, and the installed three lifted cladding boards, shall be retained as such in perpetuity.

Further, in the event that nesting bird(s) are found during demolition, work shall stop until a qualified ecologist is consulted to determine appropriate mitigation and that mitigation is fully carried out.

6. The surfaces of the slate roof hereby permitted shall be surfaced in natural slate and no other type of slate. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any Order revoking or re-enacting or amending that Order with or without modification), these natural slate surfaces shall thereafter be retained as such, and further the chimney structure and the thatch roof shown on submitted drawing no. P002 B shall be retained as such for the lifetime of the development.
7. No part of the development hereby permitted shall be first brought into use until the proposed parking spaces have been completed in accordance with the approved details listed in condition 2. Thereafter, these spaces shall always be retained for purposes of vehicle parking and be kept free from the storage of materials.
8. The development hereby permitted shall not be first brought into use until the entirety of the surfaces of the proposed parking area has been consolidated and surfaced in accordance with the approved details listed in condition 2. Thereafter, these parking area surfaces shall be retained as such.
9. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any Order revoking or re-enacting or amending that Order with or without modification), no windows, doors or other form of openings shall be inserted above ground floor ceiling level in the east elevation or the west elevation of the development hereby permitted.
10. Before the extension hereby permitted is first occupied the window in the east elevation hereby permitted shall be glazed only with obscure glass to an obscurity level of no less than Pilkington Level 3 or equivalent, and this window shall be permanently retained with such obscure glazing in perpetuity.