



Appeal Decision

Site visit made on 8 December 2023

by Tom Gilbert-Wooldridge BA (Hons) MTP MRTPI IHBC

an Inspector appointed by the Secretary of State

Decision date: 19 December 2023.

Appeal Ref: APP/A1910/D/23/3315971

New Lodge, Dunstable Road, Markyate, Hertfordshire AL3 8QJ

- 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 Adrian Mateas against the decision of Dacorum Borough Council.
 - The application Ref 22/03157/FHA, dated 19 October 2022, was refused by notice dated 13 December 2022.
 - The development proposed is remodel the existing property and add a rear extension.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are the effect of the proposed development on:
 - (a) the significance of heritage assets, including the Grade II* listed Cell Park and the Grade II registered park and garden known as Markyatecell Park;
 - (b) the character and appearance of the area; and
 - (c) trees.

Reasons

Heritage assets

3. Cell Park is a Grade II* listed building dating back to the 16th centuries with notable alterations and additions in each subsequent century through to the 20th. It is a large red brick country house with rich detailing including chimneys, turrets, and gables. Consequently, it has considerable special interest and significance as a listed building. Section 66(1) of the Planning (Listed Building and Conservation Areas) Act 1990 ('the LBCA Act') requires special regard to be had to the desirability of preserving a listed building or its setting or any features of special architectural or historic interest which it possesses when dealing with planning applications.
4. Cell Park is located within the Grade II registered park and garden known as Markyatecell Park. The park was laid out in the early 19th century and was subject to alterations in the early 20th century. The alterations incorporated new entrances and approaches to the main house, including from the north-west corner of the park where the appeal site is located. There are formal gardens around the house while mature parkland makes up the remainder of the designated area as noted by the official list entry. The significance of the

registered park and garden is derived from its association with the listed Cell Park and the survival of a 19th and 20th century designed landscape.

5. The appeal site comprises the north-westernmost part of the registered park and garden with a large area of grass and trees. New Lodge is located in the north-west corner of the site immediately adjacent to a red brick entrance gate and screen wall. The two storey building dates from the early 20th century as part of one of the then new approaches to the main house. It is of modest size with a broadly symmetrical plan form with gables projecting on each side and bay windows at the front. It has an overhanging thatched roof, external render, and brick chimney. At the rear there is a small courtyard garden enclosed by a brick wall. The lodge is used as a residential property.
6. Section 1(5) of the LBCA Act states that any object or structure within the curtilage of the listed building which, although not fixed to the building, forms part of the land and has done so since before 1 July 1948 shall be treated as part of the listed building.
7. The appellant disputes the Council's position that New Lodge is within the curtilage of the listed Cell Park. This is a matter of fact and degree based on the evidence before me. There are a number of factors that may be taken into account in defining the extent of curtilage. These comprise the physical layout or relationship between the listed building and the building in question, their ownership and use or function historically and at the date of listing.
8. Cell Park was listed in 1952. However, the law relating to curtilage only came into effect on 1 January 1969 and so the general approach to any consideration of the above factors is to look at the position from this date. New Lodge and the appeal site have previously been in the same ownership at Cell Park based on an old title plan provided in the appellant's evidence and the fact that the lodge was built by the owners of the house and park in the early 20th century. The lodge and appeal site are in separate ownership to Cell Park today, but the evidence before me is unclear for ownership on 1 January 1969.
9. New Lodge is some 700m from Cell Park and there is no intervisibility due to topography and vegetation. Nevertheless, the lodge was part of one the entrances and approaches to the main house and so there was a physical and functional relationship between the two buildings. The lodge is also situated within the boundary of the registered park and garden which indicates a connection between the two buildings. While boundaries can be altered, and this part of the park is not part of the formal gardens, it comprises parkland landscape which forms part of the designated area.
10. There is a clear physical and functional relationship between New Lodge and Cell Park, at least historically and perhaps at the date of listing and/or 1 January 1969. Taking a precautionary approach in the absence of clearer evidence on ownership, I consider that New Lodge is curtilage listed for the purposes of this decision. It is important to stress that the building is not listed in its own right. As such, its relevance lies not in its own merit but in the contribution it makes to the special interest of Cell Park.
11. Even if the lodge is not listed by virtue of being within the curtilage of Cell Park, it is located within the parkland surroundings in which the listed building is experienced. Therefore, the lodge forms part of the listed building's setting. It also forms part of the registered park and garden.

12. New Lodge has architectural and historic interest as a relatively late example of an entrance lodge serving an approach through a parkland landscape to a historic country house. Its size and the use of thatch and render results in a modest but nevertheless attractive vernacular building. Therefore, the lodge makes a positive contribution to the special interest, significance and setting of the listed building as well as the significance of the registered park and garden. It can also be regarded as a non-designated heritage asset notwithstanding the lack of identification on any formal list.
13. The proposed development would modernise the appearance of the building with slates replacing the thatched roof, red facing bricks applied to external walls, and metal windows inserted into existing openings. A large two storey rear extension utilising similar materials would replace the walled courtyard and be partly sunken into the ground.
14. The enlarged size of the building would not be obvious from the entrance gate due to the location of the extension. However, once inside the appeal site the building would appear almost doubled in size even with the sunken elements. The gable projections and front bay windows would remain, but the existing plan form would be in competition with the scale and bulk of the extension. The glazed link and the use of flat roof elements would not offset the size and dominant form of the extension.
15. Moreover, even from the entrance gate, the building would have a considerably altered appearance because of the changes in materials. The quality of the brick and slate can be controlled by condition and the colour of the brick could reflect the entrance gate and screen wall. Nevertheless, the thatched and rendered appearance would be lost. There would also be some loss of fabric on the existing rear elevation and from the removal of the walled courtyard. The ability to understand the building as a modest entrance lodge to a country house and parkland landscape would be greatly diminished.
16. Consequently, the proposed development would result in less than substantial harm to the significance of the listed building and the registered park and garden. It would also detract from the building as a non-designated heritage asset. Thus, the development would not preserve the special interest or setting of the listed building as required by the LBCA Act. This carries considerable importance and weight in the overall balance.
17. Paragraph 199 of the National Planning Policy Framework (NPPF) requires great weight to be given to the conservation of designated heritage assets irrespective of the extent of harm. NPPF paragraph 200 states that any harm to significance should require clear and convincing justification, while paragraph 202 requires less than substantial harm to be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use.
18. The proposed development would provide a larger family dwellinghouse, but the building is already used for residential purposes as the optimum viable use. I have little evidence that there is a risk of non-occupation without the proposed development or that the long-term conservation of the building could not be secured through more sympathetic alterations. The proposal would not enhance the significance of the building or designated heritage assets for the reasons given above. It is not apparent that improvements to the existing

gates or roadway into the site are reliant on the development. Therefore, the public benefits carry little weight and would not outweigh the harm identified.

19. In conclusion, the proposed development would harm the significance of heritage assets and would not preserve the special interest or setting of the listed Cell Park. Therefore, it would conflict with Policy CS27 of the Dacorum Core Strategy 2013 (DCS), which requires the integrity, setting and distinctiveness of designated and undesignated heritage assets to be protected, conserved and if appropriate enhanced.

Character and appearance

20. The appeal site is in the countryside adjacent to the A5183. There are only sporadic houses and larger commercial and employment developments along this road corridor. As noted above, the existing building has modest proportions and a simple but attractive gate lodge appearance which means it makes a positive contribution to the character and appearance of the area.
21. The site lies within the Rural Area as defined by the DCS and is also within the Chilterns Area of Outstanding Natural Beauty (AONB). Amongst other things, DCS Policy CS7 permits small-scale development in the Rural Area for limited extensions to buildings, while Policy CS24 seeks to conserve the AONB and protect the scarp slope from development that would negatively impact on its skyline.
22. New Lodge is set back from the road and largely hidden by vegetation even in winter months. The proposed development would have little effect on the AONB or its skyline due to the amount of screening and the location of the building at the lower part of the site. However, it would represent a considerable enlargement in built form with a long and bulky rear extension that would overwhelm the modest proportions of the existing building. There would also be a marked and adverse change in the simple appearance of the building through the use of a completely different set of external materials. As such, the proposed development could not be regarded as a limited extension, and it would result in harm to the character and appearance of the area.
23. In addition to conflict with DCS Policy CS7, the development would also conflict with Policy CS12 which seeks quality design having regard to matters such as scale, height, bulk and materials.

Trees

24. The existing building and walled courtyard are positioned close to several trees that form part of the green boundary to the appeal site and wider park. The proposed development would involve various construction works including excavation for the subterranean elements of the extension. However, there is little information from the appellant on the potential effects on nearby trees. While it is possible that a planning condition could secure details of tree protection and replacement planting, this is a sensitive location in terms of heritage assets where clarity should be provided before a decision is made.
25. In the absence of sufficient information, it is not possible to conclude that the proposed development would have an acceptable effect on trees. Therefore, it would not accord with DCS Policy CS12(d) which seeks to retain important trees or replace them with suitable species if their loss is justified or Policy 99 of the Dacorum Borough Local Plan 2004 which requires careful consideration

of trees, an accurate tree survey, and details of works and protection measures. The Council also cites conflict with DCS Policies CS26 and CS29, but these relate more generally to green infrastructure and sustainable design rather than the protection of trees explicitly and so are not particularly relevant in this instance.

Other Matters

26. Reference has been made to recent development proposals at Cell Park Farm which is nearer to the listed Cell Park than the appeal site. However, I have limited information on what has been permitted and/or constructed and each case should be determined on its own merits.

Conclusion

27. For the above reasons, and having had regard to all other matters raised, I conclude that the appeal should be dismissed.

Tom Gilbert-Wooldridge

INSPECTOR