



Appeal Decision

Site visit made on 21 May 2024

by R Kent BA (Hons) MTP DipM MRTPI

an Inspector appointed by the Secretary of State

Decision date: 5 June 2024

Appeal Ref: APP/Y3940/D/24/3337419

Upcott Cottage, Bath Road, Marlborough, Wiltshire SN8 1NN

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
 - The appeal is made by Mrs Emma van Gijn against the decision of Wiltshire Council.
 - The application Ref is PL/2023/03811.
 - The development proposed is to install an electric sliding fence across the drive, and to replace a wooden fence along the front of our property and also a post and wire fence around part of the garden overlooking the junction between the Bath Road and Golding Avenue.
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Decision

1. The appeal is allowed and planning permission is granted to install an electric sliding fence across the drive, and to replace a wooden fence along the front of our property and also a post and wire fence around part of the garden overlooking the junction between the Bath Road and Golding Avenue, at Upcott Cottage, Marlborough SN8 1NN in accordance with the terms of the application, Ref PL/2023/03811 and the plans submitted with it.

Preliminary Matters

2. The development is described on the planning application form as "We would like to install a sliding wooden gate across our drive, as well as installing a post and wire fence around a part of our garden to make it dog proof. The gate would give us protection from the noise of the A4, as well as security (we have had things stolen from our drive) and give us more privacy and safety for our young children and dog. We have already installed a closed board wooden panelled fence along the front of the property, replacing an existing fence which has deteriorated and fallen down." The council used a more succinct version on its decision notice which the appellant has also adopted in the appeal statement of case (SoC). I have therefore used this version.
3. Reference is made in the description of the application to the works being "retrospective". This in itself is not a form of development and I have not included it in the description of the development. However, the submitted evidence confirms that the development has been carried out and I was able to see this during my site visit. I have determined the appeal on that basis.
4. The reason for refusal refers to paragraphs 199, 201 and 202 the National Planning Policy Framework (NPPF). As noted in the appellant's SoC, the Council's decision was made before the latest revision of the NPPF was issued. Those paragraphs have been renumbered 205, 207 and 208 respectively in the revised NPPF but otherwise are unchanged.

Main Issue

5. The main issue is whether the development preserves the setting of the Grade II listed building known as Lodge to Upcot¹.

Reasons

6. Section 66 (1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (PLBCAA) requires that the decision maker, in considering whether to grant planning permission for development which affects a listed building or its setting, must have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses.
7. Wiltshire Core Strategy policies 57 and 58 are relevant, seeking to conserve, protect and where possible enhance the historic environment.
8. As well as the statutory duty, the NPPF at paragraph 205 advises that when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation.

Significance of the heritage asset and its setting.

9. The Grade II listed Lodge to Upcot² is a cottage that likely dates from the late 19th Century. It derives its significance principally from its architectural interest including its red brick walls, hung fish-scale tiles, casement windows and tall chimney stacks. It also has significance as the former lodge and coach house to Upcot, a separate building sited a short distance to the east.
10. In terms of its setting, the cottage is partially screened from the road by dense, mixed hedgerow. There are some substantial trees on and around the site which contribute to its verdant setting. Behind the cottage, there is a garden area rising up to the boundary with a large, detached dwelling beyond. A timber fence, similar in appearance to the fence which is the subject of this appeal, runs along the northern boundary. A gravelled drive and turning area separate a more recent double garage from the cottage.
11. It is situated adjacent to the busy Bath Road. Upcot is sited on higher land separated from the appeal site by Golding Avenue, a curving estate road which serves a modern residential development immediately to the north of the site. Upcot is set behind a close boarded fence which runs along an embankment on its frontages to Bath Road and Golding Avenue. Trees and bushes either side of the road junction screen views between the listed buildings. To the west of the junction of Golding Avenue and Bath Road (the main A4), beyond the site, the road is characterised by large, detached houses set back behind dense hedgerows and fences each with their own driveway. The land opposite the appeal site comprises open fields with trees.
12. The immediate and wider setting of the cottage has therefore changed over time. It has a garage within its curtilage, more recent development to the north and west and is visually and physically separated from Upcot by Golding Avenue and its substantial junction with Bath Road. The fence along Upcot's frontage and the trees and bushes between it and the cottage further interrupt

¹ The building is now named 'Upcott Cottage'.

² List Entry Number: 1034271

the link between the former lodge and the property it originally served. These more recent developments do not generally make a positive contribution to the setting of the cottage or contribute to its significance.

Effect of the development on the significance of the asset.

13. It is not clear from the evidence what boundary enclosures would have originally been in place for the cottage or how open it would have been to the main road or the drive leading to Upcot. The planning application however does refer to a previous timber fence which had “deteriorated and fallen down”. Given the mature nature of much of the hedgerow along the road frontage and the presence of the previous fence, it appears probable that the frontage of the site has in more recent time at least had some degree of screening from the road.
14. The timber fence and gate which have been installed on the site’s frontage are largely set behind the existing hedgerow and screened from public view for much of its length. This is consistent with other houses fronting Bath Road. The hedgerow would have the same screening effect even if the fence was not there. Where the fence is more visible adjacent to the site entrance, its style, colour and general appearance is not dissimilar to that on the northern boundary of the appeal site. The lower section of this part of the fence is also hidden by undergrowth and the new planting identified in the appellant’s evidence. This allows it to blend in with the rest of the site frontage. The listed cottage can still be seen behind the fence with the first-floor windows, roof, gables and chimneys clearly visible. The fence and gate therefore do not adversely impact on the ability to appreciate the significance of the listed building.
15. The sliding gate, whilst reducing views into the site from the road when closed, does not have a harmful effect. The gate was open at the time of my site visit, but as the gateway is located opposite the garage rather than the house, it is the view of the garage which would be mostly interrupted by it being closed. The design of the gate, with its combination of solid lower section with open slats above is traditional in appearance and does not harm the significance of the asset. The mechanical opening mechanism is discretely located and is sited away from the listed building. Whilst visible from the parking and turning area within the appeal site, it is sufficiently far from the listed building so as not to harm its significance. Whilst the gates are designed to slide, rather than swing in the manner of a traditional gate, this action is transient and the process of opening and closing the gate would not in itself cause harm.
16. The fence and gate do not adversely impact on the physical or visual relationship of the cottage to Upcot, that relationship having already been breached by the intervening road, trees and timber fencing around Upcot. Consequently, there is no harm to the significance of the heritage asset in this respect.
17. The post and wire fence blends into the landscape around the appeal site and does not impact on the significance of the asset. It is easy to see through and does not obstruct any views of the building or its grounds.
18. For the reasons given, I conclude that the fences and gate preserve the setting of the Grade II listed building known as Lodge to Upcot, and do not harm its significance. Hence, the development does not conflict with the requirements of

the PLBCAA; policies 57 and 58 of the Wiltshire Core Strategy which seek to conserve designated heritage assets and their settings; and the requirements of NPPF paragraphs 205, 207 and 208.

Other Matters

19. On 22 November 2023, all designated Areas of Outstanding Natural Beauty (AONBs) in England and Wales became “National Landscapes”. The appeal site therefore now falls within the North Wessex Downs National Landscape (NWDNL). However, the legal designation and policy status of AONBs is unchanged, so I have used both terms where relevant.
20. On 26 December 2023, Section 245 of the Levelling-Up and Regeneration Act (LURA) amended the duty on relevant authorities in respect of their interactions with statutory purposes of AONBs, as set out in Section 85 of the Countryside and Rights of Way Act 2000 (as amended) (CRWA). In so far as it relates to this appeal, the amendment now requires relevant authorities “in exercising or performing any functions in relation to or so as to affect land in an AONB...*to seek to further* the purpose of conserving and enhancing the natural beauty of the AONB” [my emphasis].
21. There are currently no regulations or guidance to assist, but the explanatory note to the LURA states “The clause strengthens the duty on certain public authorities when carrying out functions in relation to these landscapes to seek to further the statutory purposes and confers a power to make provision as to how they should do this.” As such, it is incumbent upon me to evidence consideration of possible ways to further the purpose of conserving and enhancing the natural beauty of the AONB and NWDNL. I have therefore taken this into consideration in my determination of appeal and note that the Council did not raise any concerns regarding the effect of the development to the special qualities of the AONB and NWDNL.
22. Based on my assessment of the proposal, given the nature of the development, its proximity to buildings, roads and similar enclosures nearby, together with the hedgerow along much of the site frontage, I have no reason to arrive at a different conclusion that the development would conserve and enhance the natural beauty of the AONB and NWDNL.

Conditions

23. As the development has already been carried out, it is not necessary to impose the normal conditions requiring the development to be commenced within 3 years. For the same reason, nor is it necessary to impose a condition regarding the use of materials. From the appellant’s evidence and my site visit, some additional planting has already taken place. As I have not found harm has been caused by the fence, I do not consider it necessary to impose a condition requiring a landscaping scheme.

Conclusion

24. For the reasons given above the appeal should be allowed.

R Kent

INSPECTOR