CASE OFFICER'S REPORT

Application Reference:	PL/2023/09661
Application Type:	Householder planning permission
Site Inspection:	
Consultation ends:	11 December 2023
Case officer:	Samantha Stockley

Site Address:	Old Well House, The Street, Charlton, Malmesbury, SN16 9DL
Proposal:	Retrospective application to retain trellis fence and new gates
Recommendation:	Refuse

SITE DESCRIPTION

The application site relates to Old Well House, a detached dwelling situated to the south of The Street, Charlton in Malmesbury. The property lies within the Charlton Conservation Area and is of proximity to a Grade II listed building, which is approximately 20m to the east of the dwelling.

PROPOSAL

The application seeks retrospective permission retain trellis fence and new gates. The Trellis fence sits to the rear, atop an existing stone boundary wall to the front elevation supported on timber posts. The trellis panels measure 0.9m in height when measure from the top of the boundary wall with each panel formed of horizontal slats. The Panels would run the front elevation of the property excluding the position of the gates. The combined height of the fence and trellis is 1.8m. The gates measure 1.8m in height secured against two stone pillars with stone copings. The gates would be finished in vertical timber oak boarding.

PLANNING HISTORY

18/04536/FUL Single storey flat roofed rear extension with parapet & internal alterations, including raising roof above existing double garage to provide additional bedroom accommodation. Approve with Conditions, 05/09/2018

17/04652/FUL Single storey mono-pitch rear extension & internal alterations, including raising roof above existing double garage to provide additional bedroom accommodation, Approve with Conditions, 05/07/2017

POLICIES

Though the development plan is considered as a whole, those parts deemed to be particularly relevant to this application are listed below

National Planning Policy Framework 2023
Sections 2 Achieving sustainable development.

Section 4 Decision making.
Section 12 Achieving we-designed and beautiful places.
Section 16 Conserving and enhancing the historic environment.

Wiltshire Core Strategy
Core Policy 13: Spatial Strategy for the Malmesbury Community Area
Core Policy 57: Ensuring High Quality Design and Place Shaping
Core Policy 58: Ensuring the Conservation of the Historic Environment

Assessment

Section 38(6) of the Planning and Compulsory Purchase Act 2004 states: "If regard is to be had to the development plan for the purpose of any determination to be made under the planning Acts the determination must be made in accordance with the plan unless
material considerations indicate otherwise."

Section 70(2) of the Town and Country Planning Act 1990 provides that: In dealing with an application for planning permission, the authority shall have regard to:
• the provisions of the development plan, so far as material to the application,
• a post-examination draft neighbourhood development plan, so far as material to the application,
• any local finance considerations, so far as material to the application, and
• any other material considerations.

PLANNING ISSUES

Those issues deemed to be most pertinent to the determination of the application are as follows:

• Principle of development
• Design and Impact on the Historic Environment
• Neighbouring amenity

CONSULTATIONS

Charlton Parish Council: Objection

Advising that "Charlton is designated a Conservation Area. Conservation areas are defined as areas of special architectural or historic interest where the original appearance is preserved or enhanced. Village conservation is not about the personal tastes of individuals and not about preventing change but ensuring any proposed changes reinforce an area's established character and appearance.

Charlton's character, as regards fences and property perimeters, is one of stone walls, mainly at around 3-foot height, a few taller, and hedges, many of them natural hedges, including in the areas where there are no houses; and also a section of paddock and other field accesses.

There are 4 sections of timber fences up to 6-foot high in the village – none are very visible, all are behind 3-foot stone walls thus far less obvious, all except one are no more than about 4 metres in length while one is at 12 metres and this is in an area with no real walking access thus not very visible.

This proposed full-height gate and fence above then 3-foot wall are at a house in the very centre of Charlton. The comparison is with other houses in the vicinity which typically display 3-foot high stone walls and otherwise have an open frontage. If these houses also fitted 1.8 metre high gates and fences above their walls the Conservation Area would be mortally damaged – the Conservation Area would be dead.

Thus this gate and fence are wrong for the Conservation Area and do not fit with the nature or character of Charlton village, and the PC objects to the planning application.

Conservation: Objection

The NPPF confirms 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 (and the more important the asset, the greater the weight should be). It makes clear that any harm to a designated heritage asset requires clear and convincing justification.

The NPPF allows that a level of harm may be offset by public benefits, which could include conservation benefits, in this case no objective justification has been provided for the works and the proposals are articulated as being primarily for the convenience of the occupants i.e. a private benefit. As a result, the proposals fail to meet with the requirements of current conservation legislation, policy or guidance and I therefore recommend refusal.

The degree of harm to the Conservation Area is less than substantial to towards the lower end of the scale in that the proposals involve only part of the Conservation Area, but they involve the disruption to visual amenity in the locality and should not be seen as being of lesser consequence. Indeed, the wording of the NPPF and Local Plan polices CP57 and CP58 is expressly clear that development should preserve the character and appearance of the locality as mentioned in Section 72(1) of the Planning (Listed Building and Conservation Areas) Act 1990 requires the Council to pay special attention to the desirability of preserving or enhancing the character or appearance of designated Conservation Areas.

REPRESENTATIONS

One representation was received from a third parties in support of the application.

The comment outlines that the proposal is in keeping with North Wiltshire Villages.

Principle of development

The site lies within the small village of Charlton as defined in the WCS and within the residential curtilage of the host dwelling. The proposal is wholly within the residential curtilage, and as such, the principle of development is acceptable subject to the following considerations.

Design and Impact on the Historic Environment

The local planning authority has a duty, under Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990, when considering an application for planning permission affecting a listed building or its setting, to “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”.

Section 72 of the Planning (Listed buildings and Conservation Areas) Act 1990 requires the local planning authority to pay special attention to the desirability of preserving or enhancing the character or appearance of the conservation area in exercising planning functions.

The NPPF outlines government policy, including its policy in respect of the historic environment. Section 16 of the NPPF 'Conserving and enhancing the historic environment' sets out the Government's high-level policies concerning heritage and sustainable development. the NPPF require a balanced approach with any harm which would be caused being weighed against the potential public benefits which might be achieved. The NPPF requires local planning authorities should take account of the desirability of sustaining and enhancing the significance of heritage assets and of new development making a positive contribution to local character and distinctiveness.

Para 196 sets out that Plans should set out a positive strategy for the conservation and enjoyment of the historic environment, including heritage assets most at risk through neglect, decay or other threats including fulfilling the following criteria.

a) the desirability of sustaining and enhancing the significance of heritage assets, and putting them to viable uses consistent with their conservation;
b) the wider social, cultural, economic and environmental benefits that conservation of the historic environment can bring;
c) the desirability of new development making a positive contribution to local character and distinctiveness; and
d) opportunities to draw on the contribution made by the historic environment to the character of a place

The Council’s Core Strategy Policy CP58 ‘Ensuring the conservation of the historic environment’ requires that “designated heritage assets and their settings will be conserved, and where appropriate enhanced, in a manner appropriate to their significance.”

Wiltshire Council’s Core Strategy Policy CP57 ‘Ensuring high quality design and place shaping’: A high standard of design is required in all new developments, including extensions, alterations, and changes of use of existing buildings. Development is expected to create a strong sense of place through drawing on the local context and being complementary to the locality.

Historic England Advice Note 2 – Making changes to Heritage Assets illustrates the application of policies made by their setting. This should include sufficient information to provide a clear understanding of the significance of the heritage asset and its setting and the potential impact of any proposals on that significance. In this case, the application has not provided a “Design, Access and Heritage Statement”.

Paragraph 200 of the NPPF requires that applicants describe the significance of any heritage assets affected, including any contribution made by their setting. This should include sufficient information to provide a clear understanding of the significance of the heritage asset and its setting and the potential impact of any proposals on that significance. The requirements of the NPPF are therefore not met in this respect.

The wording of the NPPF and Local Plan polices CP57 and CP58 is expressly clear that development should preserve the character and appearance of the locality as mentioned in Section 72(1) of the Planning (Listed Building and Conservation Areas) Act 1990 requires the Council to pay special attention to the desirability of preserving or enhancing the character or appearance of designated Conservation Areas.

The application has not provided any heritage details or significant impact and as such has failed to provide any objective assessment of the fabric affected, its date or significance or of the impact of the proposals. The application has failed to demonstrate how the proposal would make any positive contribution to the character and distinctiveness of the conservation area, as a result, it fails to meet the requirements of the NPPF.

When consulted Conservation advised that the degree of harm to the Conservation Area is less than substantial to towards the lower end of the scale in that the proposal involved only part of the Conservation Area, but they involve the disruption to visual amenity in the locality and should not be seen as being of lesser consequence.

Para 208 of the NPPF sets out that where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use.

The application has not submitted a design and heritage statement to support the proposal and as such has failed to identify or demonstrate how the proposal would add any significant social benefit or add to the sustainability of the community and as a result, it fails to meet the requirements of the NPPF.

The works are deemed to be inappropriate to the locality and thus fail to preserve the local character and appearance of the Conservation Area. The materials and their execution have no reference to local design elements found elsewhere in this village. The scheme is determined to be an intrusive element in the street scene and therefore not something that the planning service are able to support. The application has failed to provide any evidence to demonstrate that the proposal would contribute to the character and significance of the conservation are or provide an public benefit. As such the proposal is deemed to be out with the policies of the WCS or the NPPF.

Impact on residential amenity

Core Policy 57 of the WCS, part vii, requires development proposals to have “regard to the compatibility of adjoining buildings and uses, the impact on the amenities of existing occupants, and ensuring that appropriate levels of amenity are achievable within the development itself, including the consideration of privacy, overshadowing, vibration, and pollution (e.g., light intrusion, noise, smoke, fumes, effluent, waste or litter)”.

The proposed development is to the front elevation sat above an existing wall. The style of wall is synonymous with the area and a key characteristic of the street scene and wider are. While the proposal would afford a greater level of privacy and security to the front elevation of the property, It is determined that landscaping would provide a more appropriate screening method, more appropriate and sensitive to the special character of the area as already seen within the street.

It is however deemed that the living conditions of the neighbouring occupiers would not be significantly impacted due to the location of the fence to the front of the dwelling but the visual amenity would be impacted due to its prominence within the public realm.

CONCLUSION

Giving special regard to the desirability of preserving the setting of the of a listed building and having regards to the significance of the conservation area, in addition to regards to the relevant national and local policies in respect of heritage assets, and being of no public benefits the proposed development is deemed harmful and therefore dose not align with the policies of the WCS or NPPF and is recommended for refusal.

Refusal Reason(s): (1)

1 The fence, subject of this planning application, fails to make a positive contribution to the local character and is considered harmful to the visual amenity of Conservation Area. The materials and their execution have no reference to local design elements found elsewhere in the street or wider village and is an intrusive element in the street scene. The application has failed to provide any evidence to demonstrate that the proposal would contribute to the character and significance of the Conservation Area and does not provide any public benefit. The proposal is therefore contrary to Section 72(1) of the Planning (Listed Building and Conservation Areas) Act 1990, the NPPF which seeks to protect heritage assets, and is also contrary to adopted WCS Core

Policies 57 and 58, which require high-quality sympathetic development.