

Parish: LONG MELFORD**Location: Westgate Park, Westgate Street****Proposal: Erection of outbuilding****Applicant: Mr J Tanner****Case Officer: Mrs Christine Thurlow****Date for Determination: 8 October 2009**

THE SITE

1. The application site is situated on the northern side of Westgate Street, Long Melford. It is occupied by an extended dwelling that is set back from the road behind a substantial wall. To the rear of the property there is a formal garden, horse exercising area and car park. In addition, stables have been constructed (planning permission reference B/07/674/FUL). A garage structure has also been erected along the eastern boundary of the site where it adjoins a dwelling known as The Thatched House (a listed building). Planning permission was refused for this structure and an Enforcement Notice served requiring its demolition: appeals were lodged against both the Notice and the refusal of planning permission which were subsequently dismissed. An appeal has been lodged in the High Court currently which is as yet undetermined.
2. The outbuilding the subject of this planning application is located to the rear of the site of Westgate Park but near to a wall which is a curtilage structure to the listed building known as Westgate House located to the west of Westgate Park. As a curtilage structure the Wall is therefore treated as being Listed. An outbuilding which is partially constructed abuts the Listed Wall. Planning permission and Listed Building Consent were refused for this structure and an Enforcement Notice was served (under the Town and Country Planning Act only) requiring its demolition. Appeals were lodged against both the Notice and the refusal of planning permission which were subsequently dismissed. This current application has been the subject of pre submission advice with your Officers and proposes to replace the unauthorised structure should planning permission be granted.
3. Whilst much of Westgate Park is located within Long Melford Conservation Area the site of the proposed building is not. Public Footpath No. 25 passes to the east of the application site and around the garage referred to in paragraph 1 above. The site lies within the Special Landscape Area.

APPLICATION

4. The planning application provides for the erection of an outbuilding which is irregular in footprint measuring 21 metres x 9 metres maximum. It has a pitched roof measuring 4.1 metres in height to the ridge with eaves of dimensions of between 1.7-2.9 metres on the southern elevation and between 2.2metres x 2.7 metres due to changing ground levels and the design of the structure. It would be clad with stained weather boarding (black) on a reclaimed brick plinth under a slate roof. The doors are to be stained boarded timber with a large ramped entrance on the south elevation (without a door). The proposal utilises part of the unauthorised outbuilding (adjacent to the Listed Wall) for part of the wall of the proposed building (southern elevation).

5. Since initial registration of the application an Arboricultural report has been submitted by the applicant; the complete text of which can be seen via arrangement with the case officer. In summary the document states:-

Conclusions

- The site is an area of land comprising the existing garden machinery storage building and a number of trees on the northern aspect is Westgate Park. At present, this particular part of the site comprises a storage facility for garden and mowing material. There are 11 trees identified on the northern aspect of the existing barn and these have been surveyed as part of this survey. The site is bordered to the north by paddocks and open countryside, to the east by paddocks and to the south and west by adjacent gardens. As part of the assessment of the proposed development, a total of 11 individual trees were identified as being potentially affected by the proposed works.
- It is my conclusion that the proposed development will not have a significant impact on the trees and landscape character associated with the site. There are no BS 5837:2005 Category "A" specimen and four BS 5837:2005 Category "B" trees on or immediately adjacent to the site. All these features will remain as an integral part of the proposed layout.
- It is necessary to fell one low quality tree (T004) in poor condition in order to achieve the proposed layout. The Horse Chestnut (T008) will require minor crown lifting to permit the construction and unhindered access around the barn.
- Four other trees (T004, T005, T010 & T011) have been identified for removal irrespective of any development proposals due to their poor condition and limited life expectancy.
- All trees and landscape features that are to remain as part of the development should suffer no structural damage provided that protective fencing is erected as detailed on Drawing No. 1849D.

Recommendations

- Given the above, and the poor condition of the trees to be removed both for and irrespective of development, it is my conclusion that the proposed development will have a negligible detrimental affect on the visual amenity of the site and surrounding landscape. If the proposed development is undertaken as detailed in the report, then the trees to be retained should not be detrimentally affected by the development, however this is dependent on the proposed tree protection being erected and maintained as detailed above.
- The tree surgery works proposed as part of this Survey are recommended to mitigate any identified problems that may be caused by trees in close proximity to the proposed development.

RELEVANT HISTORY

6. Planning and listed building consent applications were submitted for the erection of the outbuilding (partially constructed adjacent to the Listed Wall) on the site in 2007; application

references B/071299/.FHA and B/07/1300./LBC refer. However, prior to determination these applications were withdrawn by the applicant.

7. Planning and listed building consent applications were submitted for the erection of the outbuilding (partially constructed adjacent to the Listed Wall) on the site in 2008; applications references B/08/528/FHA and B/08/529/LBC. Planning permission and Listed Building Consent were refused for this structure by Development Committee at their meeting on the 25th June 2008 (item no 3 refers) and an Enforcement Notice was served (under the Town and Country Planning Act only) requiring its demolition: appeals were lodged against both the Notice and the refusal of planning permission which were subsequently dismissed. The Notice was varied to allow the demolition of the structure within a period of 6 months from the date of the varied Notice.

NATIONAL GUIDANCE

8. **PPS1** Delivery Sustainable Development (2005) - Sets out overarching policies on the delivery of sustainable development through the operation of a planning system and contains advice on design considerations
9. **PPG15** Planning in Historic Environment (1994) provides advice on development which affects the setting of listed buildings.

PLANNING POLICIES

10. The Development Plan comprises the East of England Plan adopted 2008, the saved policies and the Suffolk Structure Plan adopted 2001 and the saved policies of the Babergh Local Plan Alteration No. 2 adopted 2006. The following policies are relevant to this proposal:

East of England Plan - 2008

- **SS1** Achieving sustainable development
- **ENV7** Quality in the Built Environment

Babergh Local Plan (Alteration No. 2) 2006

- **CN01:** Design considerations
- **CN06:** Development within the setting of a listed building
- **CRO1:** Landscape Quality
- **CR04:** Special Landscape Areas

The relevant documents can be viewed via the internet. Please see Page 4 for details.

CONSULTATIONS

11. Long Melford Parish Council – original application - recommend approval
12. Long Melford Parish Council – amended application (Arboricultural report) - recommend approval
13. HoCAM - (Arboricultural Officer) makes the following comments:-

Assessment

- The tree report provides satisfactory analysis of the influence of development on existing site trees. Although a small number of trees are proposed for removal they are of limited amenity value.

Conclusion

- Detrimental impacts to existing trees scheduled for retention should be avoided provided development is undertaken in accordance with the above arboriculture report. Removal of other specified trees will have minimal impact on local amenity.

Recommendation

- Agreement to the arboriculture aspect of the application.
14. BDC – Listed Building Assessment (undertaken by Andrew Derrick) – makes the following comments:-
- The proposal follows the refusal on appeal of an earlier application to erect a lean-to storage building against the nearby 18th Century wall, listed as a curtilage structure to the neighbouring property of Westgate House. That structure had already been built without the relevant approvals, and following the appeal decision, its removal was required.
 - The current proposal envisages the erection of a free-standing storage building, the north brick plinth wall of which would be a retained element of the unauthorised lean-to structure, where it formed the south plinth wall. Above the plinth a large, traditionally-designed structure is proposed, with weatherboard cladding over what is assumed to be a timber frame (although the drawing is not clear on this point) with a slate roof. A small open-fronted lean-to is proposed on the rear (north) side of the structure.
 - The principle points of concern at the appeal related to the physical impact of the lean-to structure on the listed wall and the visual impact of the profiled metal roof cladding. The current proposal avoids both of these problems by being a detached building and by the use of a traditional slate roof finish. The proposed building is large but with the proposed design and location would not, in the opinion of the writer, impinge in a negative way on the setting of the listed wall or the setting of the conservation area which it adjoins. There is a possible concern about the retention of the existing plinth wall on the north side of the proposed building, since the new external face of this will be that originally intended to be internal, and the quality of the materials and pointing may therefore be lower. This can only be verified on site, and the necessary steps taken to tidy up the brickwork. Otherwise, it is considered that this is far more satisfactory solution than that previously proposed, and it is recommended that planning permission may be granted subject to a condition requiring the use of natural Welsh slate on the roof.
15. LHA – views awaited

REPRESENTATIONS

16. Letters of objection received on behalf of the occupier of Westgate House making the following summarised points:-
- Outside the Built Up Area Boundary (BUAB) for Long Melford, thus is defined as open countryside.
 - Within a Special Landscape Area (SLA)

- Adjacent to the Long Melford Conservation Area.
- Adjacent to a Grade II Listed Building (and its curtilage Listed Wall)
- Adjacent to a protected group of trees, forming a plantation dating back to pre 1839
- The proposal in its current form, would now project above the top of the wall by 1.9m, thus having a detrimental impact on the sensitive view from the back of Westgate House, as previously acknowledged by the applicant
- The Inspector concluded in paragraph 18 that the Listed Wall was '*a structure that should be protected, physically and visually*'. The simple re-location of the building, as shown in the current application, to a position which avoids contact to be made was not the determining factor for the Inspector who commented in paragraph 13 that '*contact between the wall and the building is not the key criterion in this case*'.
- Whilst the removal of contact is to be encouraged, the visual harm to the Listed Wall has now been increased by the current proposal from the additional 1.9m height projection above the Wall.
- The current application simply seeks to substitute one element of unacceptable development for another by providing a pitched roof (i.e. to improve the ability to select appropriate materials) which, by virtue of doing so, results in a visually imposing form of development to the Listed Wall.
- Accordingly, we are of the opinion that the proposal will result in visual harm to a Listed Building and Wall, contrary to PPS15, and should therefore be refused – the majority of the previous refusal reason could be re-applied as follows:
- The proposed storage building, by virtue of its unacceptable location and siting, form, dimensions, and proportions constitutes an inappropriate form of development which detract from the appearance, form, character and setting of the Listed Wall which forms a curtilage structure to Westgate House, a Grade II Listed Building.
- Whilst we have omitted 'materials' from the earlier refusal reason on the basis that a pitched roof could provide for enhanced materials to that previously submitted.

Protected Trees

- Whilst the application forms state in Section 16 that there are trees or hedges on the proposed site, there is no record of the applicant submitting a full Tree Survey, as required in the final paragraph of Section 16. Accordingly the applicant should be requested to undertake and provide this information prior to the determination of the application.
- We are concerned that the siting of the proposed storage building will detrimentally affect the root system of at least one of the protected trees in the plantation. The Council's Arboricultural Officer should be consulted to determine likely impact and appropriate mitigation, if appropriate.
- There is no justification for why a new storage building incidental to the enjoyment of the dwelling house should be considered acceptable as a departure from development plan policy.

- The proposed storage building will not preserve nor enhance the special qualities of the Special Landscape Area, and will harm the views into and out of a conservation area.
- In terms of impact on a Grade II Listed Building and its Listed Wall, whilst the proposal has improved the visual impact concerns of the previous application by incorporating arguably more appropriate materials, it has only been able to do so by introducing a pitched roof to the design. Consequently, this amendment has increased the height of the building by 1.9m above the Listed Wall, resulting in entirely new visual impact concerns. The applicant has previously acknowledged the importance of the view from Westgate House by confirming that development should not project above the wall. The proposed siting of the building is such that it is likely to cause harm to the roof systems of at least one protected tree in the area.

Notwithstanding the above, should the Council decide to approve the application we would seek, at the very best, the following conditions be applied:

- Submission of materials for approval
- A restrictive user condition for use as storage incidental to the enjoyment of the dwelling house
- A conditions survey to be undertaken around the footings of the wall to determine that the significant ground level reduction and increases (behind the adjacent greenhouse) will not undermine the structural integrity of the wall. Details of both for submission to and approval by the LPA.
- A detailed ground levels survey to be undertaken, and finished floor levels to be submitted and agreed by the LPA to ensure that the roof level of the proposed building is below the height of the adjacent Listed Wall.
- A full Arboricultural assessment to be undertaken on trees identified by the Council's Arboricultural Officer to determine that no trees (including root systems) will be detrimentally affected by the proposed development. Details for submission to and approval by the LPA.

17. Letter received from the prospective purchaser of Westgate House making the following comments:-

- The comments and objections raised by the current owner of Westgate House are comprehensive and I support these.
- This building will have a detrimentally effect upon the view from Westgate House and whilst I understand this is not grounds for an objection I would still like to offer observations. Westgate House is a Grade II listed Building and inevitably its landscape and surroundings have changed understandably with the evolution of Westgate Park. However it does seem that at some point a sympathetic case might be made for protecting those visual aspects that remain both as effects Westgate House and the surrounding Landscape.
- I have no objection to the applicants need for further storage space although clarity is required about its usage and what necessitates such a large building. My concern is that given the amount of building and storage that the applicant has already carried out at the site it seems further visual impairment to the surroundings is of some sympathy. Certainly the height and size seems disproportionate to the site at first glance.

- Paragraph 7.27 of the development plan states” the setting of a listed building which could include some land distant from it is often an essential feature of the buildings character. This is easily destroyed by insensitive development.
- In the course of the unsuccessful appeal dismissed by the Independent Inspector, he commented “aware of the sensitivity of the view from the back of Westgate House he (the appellant) was concerned that the building should not project above the top wall of its northern boundary”

PLANNING CONSIDERATIONS

18. The history to the currently unauthorised and partially constructed outbuilding on the site is set out above. In dismissing the appeals the Inspector stated “the location is discreet as it is partly surrounded by the group of protected, mature trees and mainly screened by the historic wall.” The Notice was varied by the Inspector so as to allow for the reclamation of building materials following the demolition of the building. This proposal partially reuses the existing north wall of the unauthorised structure in the erection of the southern wall of the proposed building. Notwithstanding this element, the proposal falls to be judged against relevant planning policies and all material considerations including the additional information submitted by the applicant. In all of these respects, the main issues to be determined are whether the proposals would:

- **Impact upon the appearance of the area and wider landscape, design considerations, impact upon the setting of the nearby Listed wall and impact upon the amenities of the neighbour.**
- **Impact upon any trees of importance which lie in the vicinity of the site of the proposed building**

Impact upon the appearance of the area and wider landscape, design considerations, impact upon the setting of the nearby Listed wall and impact upon the amenities of the neighbour

19. The location of this proposed outbuilding between the listed Wall and the bank of trees to the north would provide some screening to the structure albeit the roof of the building would be visible to the neighbour at Westgate House due to its, dimensions, design, the ground levels around the building and its slab level. However rights to a view across land outside the control of that resident cannot be protected from development and proposals must be judged on their merits.
20. In terms of the impact of the building within the wider landscape, its location, 6 metres away from the Listed Wall (itself of some 35.5 metres in length) provides some screening for the building from much of the applicant’s own site area. However, the building will be clearly visible from a public footpath which adjoins the site (no.25) and would be visible in a limited way from land outside the application site area. The height of the structure is such that it would be 1.9 metres taller than the Listed Wall.
21. The building is reasonably large in footprint and volume and given its pitched roof design it represents a building of some mass; where visible from the public footpath it would be a dominant element in the area being taller than the Listed Wall but less tall than the nearby group of trees protected by Tree Preservation Order WS 131. There is consequently an impact in wider landscape terms. However the design of the building which utilises traditional materials so as to respect both the setting of the Listed Wall and the wider landscape (some of which is designated as a Conservation Area and Special Landscape Area) would soften

the impact of the building to some degree. As stated above its location between the Listed Wall and the bank of nearby trees would also afford a degree of screening such that the degree of any harm caused would not be so significant as to justify refusal of this application.

22. With regard to the visibility of this structure from any occupier of Westgate House, it is clear from the application drawings that the building will be significantly taller than the height of the Listed Wall whereas the current unauthorised storage building is smaller in volume and does not project above the height of the Listed Wall so therefore it is not visible to the neighbour. However it has a very fleet roof slope as a consequence and employed the use of modern materials to accomplish the roof construction. The use of these materials was inappropriate as was the physical attachment to the wall and consequently the structure was termed unacceptable and detrimentally affected the Listed Wall.
23. The proposed irregular shaped building is set a distance of between 1.9 - 5.2 metres away from the Listed wall and by virtue of its dimensions and the nature of its pitched roof (as a flat roofed design would be inappropriate for this location) it is clear that it would be visible from the neighbours property and land. However this is in the main the roof structure only and as the applicant proposes the use of slates it is considered that the proposal would be acceptable if the slate were good quality natural slate rather than any other alternative forms of slate. Negotiations are taking place with the applicant to secure his written agreement to the use of goods quality natural slate.
24. Investigations are also taking place to clarify whether the plinth of the wall being reused in this building will need to be re-pointed /refaced so that its appearance is appropriate for exposure as an external wall in this construction. In addition further clarity has also been requested from the applicant to confirm the use of the building which it is understood has been designed to store hay for the horses on the site A further verbal report will be undertaken at the meeting on these matters. Subject to their satisfactory conclusion it is considered that the proposal is acceptable in relation to all the impacts listed above and would represent an acceptable siting for the structure given the degree of separation from the Listed wall which is necessary in order to protect its setting.
25. However the two suggestions for conditions from the agent acting for the current occupier of the Westgate House about controlling ground levels of the new structure by condition and ensuring that ground level changes associated with the development will not affect the structural integrity of the Listed wall are considered appropriate and worthy of inclusion in the list of conditions recommended below.

Impact upon any trees of importance which lie in the vicinity of the site of the proposed building

26. It is clear that the siting of this structure will have an impact on the group of trees that lie in the vicinity of the site. They are a mixture of different species and some are tall mature specimens albeit contained in a group. The applicant's arboriculture report confirms this albeit the report also refers to the need for works to trees in this group which goes beyond the scope of the impacts of this application; as such these works need to be the subject of a separate formal application to the Council to carry out works to protected trees.
27. The Councils Arboriculture Officer does not disagree with the outcome of the arboriculture assessment submitted by the applicant and states that the small number of trees proposed for removal are of limited amenity value. His recommendation that the application can be supported in the light of the impact upon the trees is subject to conditions to ensure that all sound practices for building close to the trees should be adhered to.

REASONS FOR APPROVAL

28. Subject to the outstanding matters being clarified and the conditions listed below, the proposed development would not have an adverse impact upon the character and appearance of the Long Melford Conservation Area which it lies close to or the Special Landscape Area or the wider landscape. Neither will the proposal adversely affect the setting of the Listed wall nor result in detriment to the amenities of the neighbour or Members of the public using the public right of way sufficient to justify refusal of the application. As such the proposal is in accordance with the provisions of Policies SS1 and ENV7 in the East of England Plan and saved policies CNO1, CNO6, CRO1 and CRO4 of the Babergh Local Plan Alteration No.2 2006.

RECOMMENDATION

Subject to the receipt of satisfactory written confirmation from the applicant to address all the outstanding matters referred to in paragraphs 22 and 23 of the report above and satisfactory outcome to the other outstanding matter referred to, the Chief Planning Control Officer be authorised to grant planning permission subject to the following conditions:-

- Time limit condition
- Details and samples of all external facing and roofing materials
- Condition regarding use of the building
- Details of ground level changes and details of the slab level of the building
- As recommended by the Councils Arboricultural officer to secure the satisfactory safeguarding of the protected trees.