



Appeal Decision

Site visit made on 6 December 2020

by M Savage BSc (Hons) MCD MRTPI

an Inspector appointed by the Secretary of State

Decision date: 25 January 2021

Appeal Ref: APP/X3540/C/20/3256490

The White Cottage at 3-4 Queens Head Lane, Woodbridge, Suffolk

IP12 4ND

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991.
 - The appeal is made by Mrs Claire Carter against an enforcement notice issued by East Suffolk Council.
 - The enforcement notice was issued on 30 June 2020.
 - The breach of planning control as alleged in the notice is without planning permission the installation of a wheelchair lift on the Property.
 - The requirements of the notice are:
 1. Permanently remove from the Property the wheelchair lift.
 2. Permanently remove from the Property any materials resulting from the removal of the wheelchair lift.
 - The period for compliance with the requirements is 2 months after this notice takes effect.
 - The appeal is proceeding on the grounds set out in section 174(2)(a) of the Town and Country Planning Act 1990 as amended.
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Decision

1. The appeal is dismissed and the enforcement notice is upheld. Planning permission is refused on the application deemed to have been made under section 177(5) of the 1990 Act as amended.

Procedural Matters

2. The Enforcement Notice makes reference to a number of policies from the Suffolk Coastal District Local Plan. However, the East Suffolk Council Suffolk Coastal Local Plan (SCLP) has since been adopted, 23 September 2020, and now forms part of the Development Plan. The Council set out within its Statement which policies it considers relevant and the appellant has had the opportunity to comment on its implications through this appeal. I have therefore taken the policies of the SCLP into account when making my decision.

Main Issue

3. The effect of the appeal scheme on the character or appearance of the Woodbridge Conservation Area (WCA).

Reasons

4. The appeal site comprises a substantial brick built dwelling which fronts onto Queens Head Lane and is within the WCA. Queens Head Lane is a single-track road which slopes steeply towards Seckford Street, with views towards the park beyond. Queens Head Lane is bound by a substantial brick wall along much of its western side, with traditional dwellings which front onto the road

on the other side, including the appeal property. There are a number of listed buildings in the vicinity of the site, including Fairfield House, which sits opposite the appeal building.

5. I have been provided with an extract of the Woodbridge Conservation Area Appraisal Supplementary Planning Document (SPD)(2011) which identifies the walls and views along Queens Head Lane to be of importance. The SPD also identifies the appeal property as a 'Significant Building'. From the evidence before me, and my visit to the area, I consider the significance of the conservation area and listed buildings within is derived from the historic pattern of development, and the attractive and traditional architectural detailing. The design of the appeal building and use of traditional building materials makes a positive contribution towards the WCA.
6. Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires me to pay special attention to the desirability of preserving or enhancing the character or appearance of the WCA. Furthermore, paragraph 193 of the National Planning Policy Framework ('the Framework')(2019) states 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. Policy SCLP11.3 of the SCLP seeks to conserve and enhance the historic environment and explains that the policies of the National Planning Policy Framework will be applied in respect of designated and non-designated heritage assets.
7. The lift is constructed of metal and glass and is sited on the front elevation of the property, set back slightly from the road, and provides access to the rear garden. Despite its setback from the highway, the lift and associated equipment are clearly visible from Queens Head Lane. Although the materials used in its construction appear high quality, they contrast with the more traditional materials used in construction of the main dwelling. This is contrary to Policy SCLP11.1 of the SCLP which seeks high quality materials appropriate to the local context. This, together with its protrusion and height, makes the lift appear an incongruous feature which discords with the main dwelling.
8. Although distant views of the structure are limited, this harms the character and appearance of the area and the significance of the WCA, contrary to Policy SCLP11.5 of the SCLP which seeks development that preserves or enhances the character or appearance of the conservation of an area. Thus, for the reasons given above, I conclude that the proposal would not conserve or enhance the character or appearance of the WCA and would conflict with policies SCLP11.1, SCLP11.3 and SCLP11.5 of the SCLP, the requirements of which are set out above.
9. Paragraph 184 of the Framework states that heritage assets are an irreplaceable resource, and should be conserved in a manner appropriate to their significance. Paragraph 196 goes on to advise 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. I consider that the harm arising to the significance of the designated heritage asset would be less than substantial in the context of paragraph 196 of the Framework.

10. I note the appellant did not intend to breach planning and was advised by the company supplying the company that this type of lift does not usually require planning permission. However, the appellant's case is that planning permission should be granted for what is alleged in the notice, not that there has not been a breach of planning control. The Council set out why it considers planning permission is required in a letter to the appellant and I see no reason to draw a different conclusion in this regard.
11. The appellant advises that planning permission has been granted which allows for a 'sizeable open staircase with side rail access to the rear garden up and along the elevation where the lift has been installed' and suggests that the platform lift is less intrusive than an open staircase would be. I consider it unlikely that a staircase in this location would protrude to the same extent that the lift does. However, I have no substantive details of the staircase and cannot be sure what its effect on the WCA would be compared with the appeal scheme. I am therefore unable to afford this matter any significant weight in my consideration of this appeal.
12. It is suggested that the area of the disabled lift is considerably less than what would equate to a 'permitted development porch', however no details have been provided as to what such a scheme would comprise, nor am I convinced that the appellant would choose to construct such a structure in the event the appeal is dismissed since such a structure would not provide access to the rear garden.
13. The Public Sector Equality Duty (PSED) as set out under the Equality Act 2010 concerns the need to eliminate unlawful discrimination, harassment and victimisation, and to advance equality of opportunity and foster good relations between people who share a protected characteristic and people who do not share it. Since the appellant's stepdaughter is disabled and her husband is elderly with health issues, they will have protected characteristics for the purposes of the PSED.
14. I have been provided information about the appellant's stepdaughter's health, however, the role that the appellant plays in her care is not clear. Whilst the long-term care of the appellant's stepdaughter may eventually fall to her, it is not clear whether her stepdaughter would live in the property and if so, whether this is the only place she could live.
15. The appellant submitted a copy of a shorthold tenancy agreement which expired on 24 November 2020 and which, I am told, has not been renewed. I am advised that after Covid, the appeal property is the appellant's 'destination', however, this supports the Council's contention that the appellant does not reside at the property.
16. I acknowledge that an open sided staircase would not provide disabled access and is unlikely to be suitable for individuals with mobility issues. However, it has not been demonstrated that the lift is the only means of providing access to the rear garden.
17. Under the Human Rights Act 1998, The First Protocol, Article 1 affords the protection of property and Article 8 affords the right to respect for private and family life, home and correspondence. These are qualified rights, and interference may be justified where in the public interest. Having regard to the legitimate and well-established planning policy aims to conserve heritage

assets, in my view, the benefits of the appeal scheme would be outweighed by the harm I have identified to the WCA, the conservation of which I attribute great weight to. A refusal of permission would be proportionate and necessary and would not unacceptably violate the family's rights under Articles 1 and 8. The protection of the public interest cannot be achieved by means that are less interfering of their rights.

Other Matters

18. The Council has drawn my attention to a number of other policies of the SCLP, including Policy SCLP3.1 which details the strategy for growth, Policy SCLP3.2 which sets out the settlement hierarchy, Policy SCLP3.3 which seeks to direct new development to defined settlement boundaries and Policy SCLP11.2 which relates to residential amenity. As the reason for issuing the enforcement notice relate to the effect of the development on the WCA, their relevance to the case is not clear. As set out above, I have found that the appeal scheme conflicts with the policies of the development plan that are of most relevance and the Framework.

Conclusion

19. For the reasons given above, I conclude that the appeal should not succeed. I shall uphold the enforcement notice and refuse to grant planning permission on the deemed application.

M Savage

INSPECTOR