



Appeal Decision

Site Visit made on 1 July 2021

by A M Nilsson BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 10th August 2021

Appeal Ref: APP/A0665/W/20/3264820

The Old School House, Lightfoot Lane, Tarporley, CW6 9AF

- 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 Mrs Penny Musgrave against the decision of Cheshire West and Chester Council.
 - The application Ref 20/02779/FUL, dated 3 September 2020, was refused by notice dated 6 November 2020.
 - The development proposed is subdivision of the Old School House to form separate dwelling, and provision of vehicular and pedestrian access (resubmission of 19/00568/FUL).
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. On 20 July 2021, the Government published its revised National Planning Policy Framework ('the Framework'). It replaces the previous version published in February 2019. The Framework represents the Government's up-to-date planning policies for England and how they should be applied.
3. The appellant does not consider that the revised Framework has any significant bearing on the issues presented by this appeal. The Council did not comment on the revised Framework in relation to the appeal.

Background

4. The proposed development is for the subdivision of the Old School House to form a separate dwelling, and the provision of a vehicular and pedestrian access. It is described as a resubmission of a previous planning application¹ that granted consent for the subdivision of the Old School House to form separate dwelling, and provision of vehicular and pedestrian access. The evidence outlines that the sole difference between the previous application that was granted planning permission, and that subject to the appeal is the provision of a new access from Sapling Lane. This is the matter in dispute.
5. Although the whole of the development is before me, I have confined my consideration of the appeal to the proposed access from Sapling Lane. From the evidence before me, I have no reason to come to a different view from the Council in relation to the remainder of the development.

¹ 19/00568/FUL

Main Issues

6. Therefore, the main issues are 1) whether the proposed access would preserve or enhance the character and appearance of the Eaton Conservation Area (ECA), 2) the effect of the proposed access on the setting of the grade II listed Village Cross, and 3) the effect of the proposed access on highway safety.

Reasons

Character and appearance of the ECA

7. The appeal property is a grade II listed building. It is located on a prominent corner junction where five roads converge, namely Sapling Lane, Lightfoot Lane, Eaton Lane, Lower Lane and Royal Lane. It is situated within the Eaton Conservation Area (ECA) that is characterised as forming a rural village, mainly comprising residential properties of various styles and sizes.
8. The creation of the proposed access would involve the removal of a section of the existing red sandstone boundary wall that fronts onto Sapling Lane. On my site visit I observed that the boundary forms part of a notable cluster of red sandstone walls centred around the Village Cross, which is also of red sandstone, save for a brick boundary wall in front of the appeal property and a brick gable wall fronting Royal Lane. I consider that cumulatively, these features create a strong sense of enclosure and form a positive feature of the ECA at a focal point in the village.
9. Although the section of wall to be removed would be around 3m in length and would incorporate the reclaimed sandstone into curved walls, it would nevertheless constitute the removal of a substantial section of the existing wall. It would introduce an additional opening that would sever the boundary, diminishing its significance and the positive characteristic I have identified above. The cumulative impact of the development, through the creation of the access and the provision of the parking and turning area, would have an urbanising effect that would harm the rural village character of the ECA.
10. Therefore, in light of the harm I have identified, the proposal would fail to preserve or enhance the character and appearance of the ECA. It would be contrary to Policies ENV5 and ENV6 of the Cheshire West and Chester Local Plan (Part One – Strategic Policies) and Policy DM46 of the Cheshire West and Chester Local Plan (Part Two – Land Allocations and Detailed Policies). Collectively, these policies require developments to preserve or enhance the character or appearance of conservation areas, including taking into consideration, amongst other things, the need to retain historic boundary treatments. It is also outlined that the demolition of non-listed buildings which make a positive contribution to the character or appearance of conservation areas, will not be allowed, other than in exceptional circumstances,

Setting of the Village Cross

11. 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.
12. The Village Cross is a grade II listed building and is situated roughly diagonally opposite the point of the proposed access. Like the boundary wall of the appeal

site and surrounding properties, it is of red sandstone with a square stepped base supporting the cross. It is highly prominent in the immediate area sitting at the junction of Sapling Lane and Royal Lane.

13. When approaching the site in a northerly direction along Royal Lane the Village Cross is experienced in conjunction with the boundary treatment of the appeal site behind it which, being of the same red sandstone material, positively contributes to its significance and appreciation. The removal of a significant section of the wall and the creation of the proposed access would have a negative effect on the appreciation of the listed building and thus have a negative impact on its setting. The fact that the listing description does not refer to the setting does not equate to an assumption that it is not significant.
14. The proposed development would therefore harm the setting of the Village Cross. It would be contrary to Policy ENV5 of the Cheshire West and Chester Local Plan (Part One – Strategic Policies) and Policy DM47 of the Cheshire West and Chester Local Plan (Part Two – Land Allocations and Detailed Policies) which require that development should conserve the significance of a listed building and its setting.

Highway Safety

15. The proposed access would be onto Sapling Lane which has a 30mph speed limit. The location of the proposed access is close to the junction with Royal Lane where road users are required to 'stop' rather than 'give way'. At the time of my site visit the road was lightly trafficked.
16. On approach to the junction with Royal Lane, Sapling Lane has a slight curve and descent. The proposed access also descends from a higher level within the appeal site. The boundary wall of the adjacent property increases in height at a point almost adjacent to the proposed access. Taking these factors into account, drivers leaving the appeal site, who in most vehicles when leaving in a forward direction would be sitting at a lower level behind the bonnet, would have their visibility severely restricted, particularly of road users descending down Sapling Lane towards the junction with Royal Lane. For these road users, particularly those unfamiliar with the local area and its accesses, the proposed access would not be readily visible and road users are more likely to be concentrating on their approach to the junction rather than anticipating vehicles leaving the appeal site. The combination of these factors means that the risk of collision is high.
17. The appellant outlines that Highways Officers have changed their comments from those made under a previous application that included the same access layout as currently proposed. Although I have considered the original comments, for the reasons outlined above, I have come to a different view. I am also mindful of the Highways Officer comments relating to the application subject to the appeal and the formal decision of the Council. I have also determined the appeal on its own individual planning merits.
18. I therefore conclude that the proposed development would have an unacceptable impact on highway safety. It would be contrary to Policy T5 of the Cheshire West and Chester Local Plan (Part Two – Land Allocations and Detailed Policies) which requires, amongst other things, that developments do not create any unacceptable impacts on road safety.

Other Matters

19. The appellant outlines how the proposed access would avoid the need to utilise, what they consider, a contrived layout as previously approved by the Council, which would have a greater impact on the amenity of adjacent occupiers and the setting of the listed building. The merits of the previous decision are not before me, suffice it to say that the Council granted planning permission, presumably, having regard to the impact on living conditions and the setting of the listed building.
20. I have considered the representations that were submitted in support of the proposed development. The matters raised relating to the character and appearance of the ECA, the setting of the Village Cross, and highway safety are considered above.
21. Reference is made to the fact that the proposed development would provide safe and secure off-street parking for the dwelling as opposed to parking on street. I acknowledge that this provides a minor benefit, however it does not outweigh the harm I have identified. The previous planning consent also demonstrates that there are alternative means of providing off-street parking at the appeal site.
22. Representation is also made that without the proposed access, the future acquisition of an electric vehicle and having a charging point and vehicle so close to the junction would be dangerous, and that cycles would either need to be stored in the property or on Lightfoot Lane. There is little substantive evidence on these matters that would justify the harm I have identified. They therefore have limited weight in the appeal.
23. The proposed development would provide additional housing. This same housing is also secured under the previous planning consent. Nevertheless, the provision of housing is a benefit of moderate weight in the balance.

Planning Balance and Conclusion

24. Paragraph 199 of the Framework 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 (and the more important the asset, the greater the weight should be). This is irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance.
25. Having regard to paragraph 202 of the Framework, I find that the harm to the ECA and the setting of the listed building is relatively localised and therefore the proposal would cause less than substantial harm to the significance of the designated heritage assets. I do not, however, find that this harm is outweighed by the provision of housing, off-street parking, or any other public benefits of the proposal.
26. For the reasons set out above, and having had regard to all other matters raised, I conclude that the appeal should be dismissed.

A M Nilsson

INSPECTOR