
Appeal Decisions

Site visit made on 20 July 2021

by Paul Thompson DipTRP MAUD MRTPI

an Inspector appointed by the Secretary of State

Decision date: 20th October 2021

Appeal A: APP/J1915/W/20/3258553

Oak Cottage, Chipping, Buntingford, Herts SG9 0PG

- 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 Virginia Redford against the decision of East Hertfordshire District Council.
 - The application Ref 3/19/2402/FUL, dated 25 November 2019, was refused by notice dated 25 March 2020.
 - The development proposed is Erection of a detached house.
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Appeal B: APP/J1915/W/20/3258554

Oak Cottage, Chipping, Buntingford, Herts SG9 0PG

- 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 Virginia Redford against the decision of East Hertfordshire District Council.
 - The application Ref 3/20/0609/HH, dated 20 March 2020, was refused by notice dated 16 June 2020.
 - The development proposed is Demolition of existing single storey section of house to side and rear. Demolition of detached garage. New rear two storey extension.
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Appeal C: APP/J1915/Y/20/3258556

Oak Cottage, Chipping, Buntingford, Herts SG9 0PG

- The appeal is made under section 20 of the Planning (Listed Buildings and Conservation Areas) Act 1990 against a refusal to grant listed building consent.
 - The appeal is made by Mrs Virginia Redford against the decision of East Hertfordshire District Council.
 - The application Ref 3/20/0630/LBC, dated 20 March 2020, was refused by notice dated 16 June 2020.
 - The works proposed are Demolition of existing single storey section of house to side and rear. Demolition of detached garage. New rear two storey extension.
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Decision

1. Appeals A, B and C are dismissed

Procedural Matters

2. The National Planning Policy Framework was revised on 20 July 2021 (the Framework). The main parties have had the opportunity to comment upon the relevance of any revised content of the Framework and I have had regard to any responses received in my decision.

3. As set out above there are three appeals on this site, concerning two schemes under different, complementary legislation. The schemes differ as they respectively relate to a dwelling within the garden of the property and an extension to it. I have considered each proposal on its individual merits but, to avoid duplication, I have dealt with the two schemes together.

Main Issues

4. The main issues are: -
- the effect of the proposal on the character and appearance of the site and its surroundings, including the setting of the Grade II listed building, known as 'Oak Cottage' (Appeal A only);
 - whether the proposal would preserve a Grade II listed building, known as 'Oak Cottage', and any features of special historic interest that it possesses, including its setting and the effect on the character and appearance of the site and its surroundings (Appeals B and C only);
 - whether safe access and escape routes can be provided to the proposed development in the event of flooding (Appeal A only); and
 - the effect of the proposal on the living conditions of neighbouring occupiers, in respect of noise and disturbance (Appeal A only).

Reasons

Significance, setting, and site characteristics

5. The appeal site concerns Oak Cottage and its rear garden. This is a Grade II listed timber-framed building of late 16th Century origin, sited perpendicular to the A10. The appeals are supported by separate heritage assessments and the Historic Building Appraisal (HBA) for Appeals B and C suggests that the cottage probably originated as a dwelling for a worker on the manorial farmlands associated with either Buckland Manor or Pope's Hall. The HBA also outlines that it was originally arranged to a lobby-entry plan and the timber-framing has a higher status due to the close consistency of its studding, which would have added greater expense to the construction. The framing is evident throughout the building but particularly at first floor, where it is exposed. The HBA includes photographs of the roof structure, which illustrate the absence of a ridge timber and a clasped purlin and collar truss construction.
6. Ordnance Survey and Tithe Maps demonstrate evidence of previous extensions to the cottage and it has been altered in the 17th, 19th, and 20th Centuries. The most noteworthy of these relates to the 20th Century flat roofed extension, which wraps around the north and east façades of the cottage, concealing the historic layout of the cottage and the majority of its historic fabric to just below the eaves. Moreover, its proportions and appearance are crude and at odds with the remainder of the cottage exterior.
7. While the extension generally has a harmful effect on the significance of the listed building, this does not extend to the appreciation of the symmetry of the southern façade or its interaction with the enclosed south garden. The scale and form of the original cottage therefore still dominate in this context. The gables to either end of the cottage and its eaves, verge and roof form are also still apparent, above the extension.

8. The cottage is also currently served by a large detached post war concrete garage, to its northeast, which is aligned with the driveway. Like the earlier extension, the garage is also an unsympathetic addition within the curtilage of the listed building.
9. Despite alterations to it, as far as it is relevant to the appeal schemes before me, the significance of Oak Cottage lies in its architectural and historic interest, as an early example of vernacular domestic architecture to a modest scale, on a lobby-entry plan, and with an intricate timber frame and roof structure.
10. I am mindful of the definition of 'setting' in the Framework as being the surroundings in which a heritage asset is experienced. The garden south of the cottage provides an intimate area enclosed by planting to its frontage. The undeveloped qualities of the land to the rear of the cottage, provided by its extensive garden, which slowly rises to the east, and the established planting of its eastern boundary also provide a verdant backdrop to the cottage and a transition to the agricultural field beyond. Together with its close proximity to the roadside, these features ensure that the cottage is prominent within the street and make a positive contribution to its setting, which in turn contributes to its understanding and significance.
11. The arrangement of streets is very conspicuous, as the principal routes through the village feature a predominantly spacious arrangement of houses set within large plots. While some houses are set behind those to the frontage of the A10, these are predominantly arranged to a street frontage in cul-de-sacs and lanes. The aforementioned features of the site, particularly its spacious and contained backdrop and its open and undeveloped qualities, therefore make a positive contribution to the character and appearance of the site and its surroundings.

Effect of the proposal on the character and appearance of the site and its surroundings, including the setting of the listed building (Appeal A only)

12. The proposed house would be situated in an elevated position, visible above the south garden of the cottage, and conspicuous to the east of the cottage, between it and its neighbour to the north. It would therefore be highly prominent within the rear garden, and erode its undeveloped qualities, the space it provides around the cottage and to the transition to the countryside beyond. Furthermore, it would stand out behind the street frontage and, thereby, appear as a discordant insertion that would jar with the established coherent pattern of frontage development.
13. I appreciate that planting would be added to the boundary between the proposed house and Oak Cottage would eventually reduce its prominence, and this could be secured by planning condition. Nevertheless, this would be unlikely to have matured enough in its initial years of development to soften the visual effect of the physical presence of the proposal in its sensitive location. It would also take a significant amount of time for the tree coverage to reflect the existing verdant backdrop of the planting to the east.
14. I accept that the design of the proposed house reflects characteristics of other houses in the village, including its use of materials and roof pitch. However, due to the lack of fenestration and other detailing to its western elevation, it would present a largely blank façade to the listed cottage. The resultant scale of the house would also be emphasised by the elevated position and its

proximity to the cottage, to the extent that it would compete with the cottage and enclose it to a harmful extent.

15. Notwithstanding the above, the demolition of the existing garage, the concrete walls and metal roof of which are not in-keeping with the listed building, would open up the space immediately surrounding the cottage. This would amount to a heritage benefit.
16. I have had regard to the position of other houses in the locality, namely their distance from Oak Cottage and note that the proposal would be a similar distance away. However, the other houses nearby are not directly behind the listed building so the relationship would not be comparable with the appeal scheme before me.
17. The reduction of space around the cottage and the presence of built development to its rear would therefore be harmful to its setting and the character and appearance of the site and its surroundings.

Public benefits and conclusions on the first main issue

18. The statutory duty in Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the Act) is a matter of considerable importance and weight. Paragraph 197 of the Framework states that the desirability of sustaining and enhancing the significance of heritage assets and putting them to viable uses consistent with their conservation should be taken into account in determining applications. Paragraph 199 of the Framework also advises that when considering the impact of development on the significance of designated heritage assets, great weight should be given to their conservation.
19. The proposal would be harmful to the setting of the Grade II listed building, which would have a negative effect on its significance as a designated heritage asset. In my view the harm that I have identified would equate to less than substantial harm to its significance. I note that the appellant arrived at a similar conclusion. In such circumstances, paragraph 202 of the Framework identifies that this harm should be weighed against the public benefits of proposals.
20. I have outlined above that the demolition of the existing garage would amount to a heritage benefit, but it is doubtful whether this requires the proposed development to go ahead to take place, particularly as no replacement is proposed. Nevertheless, I afford this benefit moderate weight.
21. I acknowledge the important contribution that would be made to the supply of housing by this small windfall site, particularly as it could be built-out relatively quickly. The proposal would also be situated in a location from which local services and facilities can be accessed by future occupiers, so they would help to support the vitality and viability of the local economy, including that of Chipping and Buntingford. There would also be a choice of transport modes for future occupiers, other than private motorised vehicles, including by regular bus services. However, given the scale of the proposal, these benefits would only be afforded limited weight.
22. Given that the site forms a crucial part of the setting of the listed cottage, it could not be said to be significantly under-used. Furthermore, I note that the Framework is clear that making efficient use of land should include taking into account the desirability of maintaining an area's prevailing character and the

importance of securing well-designed, attractive and healthy places. I therefore afford limited weight to the greater use of the site.

23. The appellant has also suggested that the proposal would represent the optimum use of the unused section of the curtilage of the listed building. However, there is no substantive evidence before me to support this argument, so I afford it very limited weight.
24. I accept that the proposal would not affect the south garden of the cottage or the internal fabric of the listed building that hold the most value in terms of its significance. However, this goes without saying, as the proposal is within another part of the garden and does not require alterations to the cottage. The absence of harm in these matters would weigh neither for nor against the scheme.
25. Taking the above together, the public benefits that I have outlined would not justify allowing development that would be harmful to the setting of the listed building. In accordance with paragraphs 199 and 202 of the Framework, considered together, I therefore conclude that the public benefits do not outweigh the great weight to be given to the less than substantial harm that I have identified.
26. In light of the above, I conclude that the proposal would have a harmful effect on the setting of the Grade II listed building and the rural character of the site and its surroundings. Hence, the appeal proposal would fail to satisfy the requirements of the Act, paragraphs 197 and 199 of the Framework and conflicts with the design and heritage aims of Policies DES3 and HA7 of the Council's Local Plan¹.
27. Furthermore, I am mindful that the proposal could constitute infill development in light of the findings of the Inspector for the appeal decision to the north of the site², including Policy HD1 of the Neighbourhood Plan³. However, even if I were to reach the same conclusion, the harm that I have identified in respect of the setting of the listed building and the site and its surroundings renders it not a suitable site in conflict with the design aims of Policies GBR2 and VILL3 of the Council's Local Plan.

Effect on the special historic interest, setting and significance of the listed building and the character and appearance of the site and its surroundings (Appeals B and C only)

28. The proposed extension would be situated further from the road and only slightly larger in floor area than the existing extension, but it would be of a similar height to the cottage and add considerably to its modest scale. This would change its character from a small four-room property to a larger house, a point accepted by the appellant. Moreover, despite the narrower proportions and lighter-weight construction of the glazed link, and the comparatively smaller proportions, lack of glazing, and matching materials in the south façade, the proposed extension would still be of considerable scale and length to the east of the cottage. This would disrupt the pleasant form, scale, and symmetry of the front of the cottage and the relationship it has with its south

¹ East Herts District Plan, Adopted October 2018.

² Appeal Ref: APP/J1915/W/19/3222257.

³ Buntingford Community Area Neighbourhood Plan (2014-2031).

garden. The proposed extension would also be prominent in views through the gap between the cottage and its neighbour to the north.

29. In terms of the existing historic fabric of the cottage, the proposed glazed link would be off the east gable of the cottage, which includes a first-floor window serving a bedroom. The window would therefore be internalised, which would alter the way in which the bedroom functions and harm the legibility of the historic floorplan of the cottage.
30. The removal of the existing extension, of itself, would help to better reveal the significance of the historic fabric and layout of the listed building. Similarly, the demolition of the existing garage, the concrete walls and metal roof of which are not in-keeping with the listed building, would also open up the space immediately surrounding the cottage. These alterations would therefore amount to heritage benefits.
31. I have also had regard to the extension built nearby at Malyons⁴, in Buckland, but it is much lower scale in comparison to the existing building and includes a single-storey link. It is not therefore comparable with the proposed extension.
32. The proposal would therefore have a harmful effect on the special interest of the listed building, its setting and the character and appearance of the site and its surroundings.

Public benefits and conclusions on the second main issue

33. The statutory duty in Sections 16(2) and 66(1) of the Act are matters of considerable importance and weight and, as outlined in the first main issue, paragraphs 197 and 199 of the Framework are also of paramount importance.
34. The proposal would be harmful to the special historic interest of the Grade II listed building and its setting, which would have a negative effect on its significance as a designated heritage asset. In my view the harm that I have identified would equate to less than substantial harm to its significance. In such circumstances, this harm should be weighed against the public benefits of proposals, which includes the securing of optimal viable use of listed buildings.
35. I have outlined above that the demolition of the existing extension and garage would amount to heritage benefits. In terms of the garage, it is doubtful whether this requires the proposal to take place, particularly as no replacement is proposed. I therefore afford considerable and moderate weight to these benefits, respectively.
36. The proposed extension would complement existing accommodation within the house and improve the living environment. While this would better meet the needs of the appellant and her family, this would amount to a private benefit. Moreover, there is no substantive evidence before me to suggest how the proposal is required to sustain the heritage asset. The continued viable use of the appeal property as a residential dwelling is therefore not dependent on the proposal, as the building has an ongoing residential use that would not cease in its absence.
37. I note that there would not be a harmful impact to the living conditions of neighbouring occupiers and the proposed accommodation would exceed the

⁴ Planning References: (3/99/1186/FP and 3/99/1187/LB

national space standard dimensions. However, the absence of harm in these matters would weigh neither for nor against the scheme.

38. Taking the above together, the public benefits that I have outlined would not justify allowing works and development that would be harmful to the special historic interest and setting of the listed building. In accordance with paragraphs 199 and 202 of the Framework, considered together, I therefore conclude that the public benefits do not outweigh the great weight to be given to the less than substantial harm that I have identified.
39. In light of the above, I conclude that the appeal proposal would fail to preserve the special historic interest of the Grade II listed cottage, including its setting, and the character and appearance of the site and its surroundings. Hence, the proposal would fail to satisfy the requirements of the Act, paragraphs 197 and 199 of the Framework and conflicts with the design and heritage aims of Policies DES4, HA1, HA7 and HOU11 of the Council's Local Plan.

Flooding (Appeal A only)

40. The entrance and lower part of the access to the proposed house are situated within Flood Zone 3. The appeal is accompanied by a Flood Risk Assessment which correctly identifies this risk. However, it does not contain any further discussion on this point, particularly the mitigation measures that would be required to enable safe access and escape routes. Nonetheless, I am satisfied that a strategy of either safe evacuation and/or safely remaining in the proposed house could be agreed by planning condition. In light of this, I conclude that safe access and escape routes can be provided to the proposed development in the event of flooding. Hence, the proposal would accord with Policy WAT1 of the Council's Local Plan.

Living conditions (Appeal A only)

41. The access for the proposed house would be taken between Oak Cottage and Ashford Cottage, along the driveway that will continue to serve Oak Cottage and continue to the eastern extent of the site. The driveway is adjacent to that of Ashford Cottage.
42. The proposal would be for a 3-bedroom house, but the extent of vehicle and pedestrian movements would be unlikely to be significant on its own or in combination with those associated with Oak Cottage to be harmful to the living conditions of the occupiers of Ashford Cottage. Similarly, for the same reasons, there would not be harmful impacts upon the living conditions of the occupiers of Oak Cottage. Furthermore, the proposal would be unlikely to create additional noise and disturbance associated with the general comings and goings of occupants of the proposed house that would be unusual or to a harmful level for a residential area, particularly to the occupants of the dwellings to the north and south.
43. The Council also raised concerns with regard to the effect of the proposal on houses to the east, but there are no properties situated in that direction, as the site borders open countryside.
44. For these reasons, I conclude that the proposed development would not have a harmful effect on the living conditions of neighbouring occupiers, in respect of noise and disturbance. Hence, the proposal would accord with aims in respect of living conditions expressed in Policy DES4 of the Local Plan.

Other Matters

45. The Framework stresses the benefits of early engagement and of good quality pre-application discussion. The appellant submitted the proposal in Appeals B and C following pre-application advice in 2014. I am mindful that this is not binding and, in any event, I have considered the individual merits of the proposal afresh. Any positive feedback given in respect of any matters does not warrant allowing those appeals.

Planning Balance

46. I have already identified the benefits of the appeal schemes as part of the assessments of public benefits in undertaking the necessary balancing exercises in relation to the heritage asset. In terms of harms, the proposed development in Appeal A would not comply with development plan policy in respect of the harm to the setting of the Grade II listed building and the character and appearance of the site and its surroundings. The proposal in Appeals B and C would also not comply with the development plan policies in respect of its harm to the special historic interest and setting of the listed building and the character and appearance of the site and its surroundings. This leads me to separate conclusions that the appeal schemes would not accord with the development plan, when considered as a whole, and I find that the adverse impacts of the proposals are matters of significant weight against the grant of planning permission for either scheme that comfortably outweigh the claimed benefits.

Conclusion

47. The proposals would be contrary to the development plan and there are no other considerations, including the provisions of the Framework, which outweigh this finding. Accordingly, for the reasons given, I conclude that the appeals should not succeed.

Paul Thompson

INSPECTOR