



Appeal Decisions

Site visit made on 3 November 2021

by E Worthington BA (Hons) MTP MUED MRTPI

an Inspector appointed by the Secretary of State

Decision date: 29th December 2021.

Appeal A: APP/V0510/D/21/3268241

28 Broomstick Cottage, The Cotes, Soham, CB7 5EP

- 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 Patricia Walsh against the decision of East Cambridgeshire District Council.
 - The application Ref 20/01244/FUL, dated 18 September 2020, was refused by notice dated 13 November 2020.
 - The development proposed is described as 'proposed extension forming kitchen'.
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Appeal B: APP/V0510/W/21/3276778

28 Broomstick Cottage, The Cotes, Soham, CB7 5EP

- 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 John and Pat Walsh against the decision of East Cambridgeshire District Council.
 - The application Ref 21/00208/FUL, dated 9 February 2021, was refused by notice dated 12 April 2021.
 - The development proposed is described as 'proposed extension forming kitchen'.
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Appeal C: APP/V0510/Y/21/3276779

28 Broomstick Cottage, The Cotes, Soham, CB7 5EP

- 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 John and Pat Walsh against the decision of East Cambridgeshire District Council.
 - The application Ref 21/00209/LBC, dated 9 February 2021, was refused by notice dated 12 April 2021.
 - The works proposed are described as 'proposed extension forming kitchen'.
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Decisions

Appeal A

1. The appeal is dismissed.

Appeal B

2. The appeal is dismissed.

Appeal C

3. The appeal is dismissed.
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Procedural Matters

4. Since the proposals relate to a listed building, I have had special regard to sections 16(2) and 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the Act).
5. As set out above, there are three appeals on the site. Appeal A and Appeal B relate to the refusal of planning permission for two different proposals. These differ only in the detail of the design of the proposed extension. Appeal C concerns the refusal of listing building consent for the works considered under Appeal B. I have considered each proposal on its individual merits. However, to avoid duplication I have dealt with the schemes together, except where otherwise indicated. Whilst I am aware that the site has some planning history, including a proposal for a two storey side extension that was refused in 2019, that scheme is not before me for consideration.
6. The name on all the application forms is John and Pat Walsh. Although the name on the appeal form for Appeal A is Mrs Patricia Walsh alone, the appeal forms for both Appeal B and Appeal C refer to Mr and Mrs J Walsh as the appellants. On this basis, I have referred to the appellants (plural) in this decision.
7. On the 20 July 2021 the government published its revised National Planning Policy Framework (the Framework). Since the revised Framework's approach to the main issue in this case has not altered significantly, I am content that this change has no bearing on the main parties' cases in this instance. I also confirm in the interests of clarity that all references to the Framework in this decision are to the updated 2021 version.

Main Issue

8. The main issue is whether the proposals would preserve a grade II listed building Broomstick Cottage, 28, The Cotes (Ref: 1391426) and any of the features of special architectural or historic interest that it possesses.

Reasons

The listed building

9. The appeal property is a 17th century detached timber framed cottage with a thatched roof. It is located in a cluster of existing development in a rural area with its flank elevation facing and set back from The Cotes.
10. The building has seen a good deal of additions and alterations dating from the 18th, 19th and 20th centuries. It was spot listed in 2005 to protect its historic interest and subsequently placed on the Council's buildings at risk register. Subsequently the building underwent a number of alterations in 2006, including the restoration of the thatched roof and the construction of a two storey side extension to the building's north east flank elevation in place of an existing lean-to extension there. This has a tiled roof, is constructed of timber boarding and incorporates a roof terrace/balcony feature over its single storey offshoot. The Council indicates that these works were permitted at that time to ensure the building's on going viability as a dwelling.

11. The appellants argue that that architectural interest of the cottage has been significantly diminished as a result of all these changes. They also consider there to be better traditional 17th century cottages in the district of greater interest, and do not regard the appeal building to be an influential example of its architectural typology, or a unique or exceptional example of the local vernacular. Be that as it may, it remains that the appeal building is listed and as such is recognised for its special architectural or historic interest and considered to be of national importance and therefore worth protecting.
12. Despite its previous additions and alterations, in my view the cottage for the most part maintains its integrity and authenticity as a traditionally constructed cottage. Overall it retains its simple compact form and linear layout and the historic two bay range of the listed building is still legible. Thus it remains an attractive rural dwelling typical of the local vernacular building styles and construction techniques.
13. Given the above, from the listing description and the evidence before me, I find the special interest of the listed building, insofar as it relates to these appeals, is drawn from its modest scale and proportions as well as its traditional rural layout and design.

The effect of the proposals on the listed building

Appeal A

14. The proposal under appeal A is for a single storey extension to the building's south west gable end. It would have a pitched roof to reflect that of the existing house and a gable end with a single ground floor window.
15. The Council's Design Guide Supplementary Planning Document (SPD) acknowledges that small buildings can often present challenges with regard to the scale of extensions, and that they often need to be extended to give them purpose and secure them in active use. However, it also indicates that the form and proportions of the original dwelling will determine the extent to which it can be extended, and that when a dwelling has been extended, the original building should still be clearly legible and pre-dominate.
16. Since it is constructed of brickwork associated with works to the building undertaken in the 1970s, the parties are agreed that no historic fabric would be lost in breaking through the building's south west gable end to access the proposed extension. The proposal would have a slightly lower ridge height than that of the main part of the building and be constructed of render to match the existing cottage. The use of clay pan tiles on the roof would reflect the traditional roofing materials typical of the area.
17. Nevertheless, at around 4 metres wide and 4.5 metres long it would be large in size in relation to modest historic floorplan of the rural cottage. It would add considerably to the ground floor plan and in combination with the existing substantial extension at the other end of the building, would further elongate its linear form. In doing so, it would erode to an even greater degree the proportions of the modest functional linear layout of the building that is typical of a 17th century vernacular cottage.
18. It would also almost entirely obscure the building's south west gable end, and result in significant modern additions at both ends of the simple two bay range

that makes up the historic part of the building. Thus it would interpose its 17th century core between two different and visually competing contemporary wings. As a result of this 'sandwiching', the historic part of the building would be overwhelmed, and its status and importance as the principal element of the building severely diminished.

19. The extension would not affect the principal front or rear elevations of the building. Nor would it be highly visible in the street scene due to its position set well back from the road and the established vegetation to the site frontage. I also acknowledge the appellants' argument that the character of the area is in any event varied including some modern and agricultural buildings nearby and a number of outbuildings within the appeal site itself. Nevertheless, due to its location on the building's gable end facing the road, the proposal would be a prominent feature on that part of the building that is visible from The Cotes.
20. Taking all these factors into account, I find that in combination with the existing extension, the proposal would further erode the scale and simplicity of the historic building and detract from its traditional rural design. In increasing the extent and status of the modern extensions to encapsulate both ends of the building, the proposal would undermine its modest vernacular form and limited proportions, and challenge the visual dominance of the main part of the house. Thus the proposal would seriously compromise the architectural integrity of the building, impair its historic legibility and lessen its charm and authenticity. Accordingly, I do not regard the proposal to constitute high quality design. That the resultant building footprint including the proposal would not exceed 50% of the overall site area does not alter my view.

Appeals B and C

21. The proposed extension under Appeals B and C is ostensibly the same as that under Appeal A, but introduces a glazed link between the gable end of the building and the new extension. The link would be 1 metre long with a width of 3.3 metres. As a result, the proposal overall would have a total projection of some 5 metres to the side of the property.
22. I appreciate that this scheme is intended to address the concerns raised by the Council in relation to the proposed considered under Appeal A. The glazed link would be set back from the flank walls of the building and the extension and down from the pitch of the extension's roof and that of the main building. The appellants regard it to be a tried and tested building method, and I note that the SPD refers to glass links as an effective way of maintaining the visual integrity of the original building.
23. However, whilst the introduction of the glazed link would allow some daylight between the proposed extension and the building, it would be very narrow. In practical terms, any sense of visual separation between the proposed extension and the building as a result of the link would be minimal. This being so, it would be insufficient to alter the appreciation of the extension as being part of the main building, and do very little to improve the legibility of the historic building or maintain its visual integrity. As such, the harm arising from the proposal considered under Appeal A and described above, would also apply to Appeals B and C.

Conclusion on Appeals A, B and C

24. I therefore conclude that the proposals would fail to preserve the special interest of the listed building. I give this harm considerable importance and weight in the balance of these appeals.
25. The proposals would be contrary to Policy ENV2 of the East Cambridgeshire Local Plan 2015 (Local Plan) which states that all development will be designed to a high quality, enhancing and complementing local distinctiveness and public amenity by relating well to existing features and introducing appropriate new designs. They would also be at odds with Local Plan Policy ENV12 which indicates that proposals that affect a listed building will not be permitted where they would have a detrimental impact on the visual, architectural or historic significance of the asset.

The Heritage Balance

26. The Framework advises at paragraph 199 that when considering the impact of a proposal on the significance of a designated heritage asset, great weight should be given to the asset's conservation. I note that the Council regards the harm to the listed building to be substantial in this instance. The National Planning Policy Guidance¹ (the Guidance) indicates that whether a proposal causes substantial harm will be a judgement for the decision maker, having regard to the circumstances of the case and the policy in the Framework. It also makes it clear that in general terms, substantial harm is a high test, so it may not arise in many cases.
27. Whilst I have found that the proposals would alter the historic legibility of the building, they would not result in any destruction or the loss of any historic fabric and could be reversible. I therefore consider the harm to the listed building to be less than substantial in this instance, but nevertheless of considerable importance and weight. Paragraph 202 of the Framework requires that less than substantial harm should be weighed against the public benefits of the proposal, including where appropriate, securing its optimum viable use.
28. Paragraph 197 of the Framework requires at criterion (a) that the Council should take account of the desirability of sustaining and enhancing the significance of heritage assets and putting them to viable use consistent with their conservation. Additionally, Local Plan Policy ENV12 is permissive of extensions which (amongst other things) facilitate the long term preservation of the building.
29. The Guidance² advises that where a heritage asset is capable of having a use, then securing its optimum viable use should be taken into account in assessing the public benefits of a proposed development. The Guidance³ also indicates that works to a listed private dwelling which secure its future as a designated heritage asset could be a public benefit. Additionally it states that examples of heritage benefits may include (amongst other things): reducing or removing risks to a heritage asset, and securing the optimal viable use of a heritage asset in support of its long term conservation.

¹ Paragraph 018 Reference ID: 18a-018-20190723

² Paragraph 016 Reference ID: 18a-016-20190723

³ Paragraph 020 Reference ID: 18a-020-20190723

30. The appeal property was vacant, in a poor state of repair, and on the Council's buildings at risk register when the appellants bought it in 2006. Due to their investment in the property and the subsequent works undertaken it was removed from the register and has an established residential use that has been ongoing since that time. The Council considers that the two storey side extension and other works permitted in 2006 provided the additional accommodation necessary to ensure the viability of the building as a residential dwelling in the long term.
31. Whilst I note the appellants' view that the proposals would ensure the longevity of its use, I am not convinced the proposed works are necessary to facilitate the long term use of the building, or that they are the minimum necessary to ensure the property can remain in residential use as suggested. The previous works have enlarged the building considerably, removed the building from risk, secured its optimal viable use as a dwelling in support of long term conservation, and facilitated its long term preservation.
32. I have seen nothing to demonstrate that the continued viable use of the appeal property as a residential dwelling is dependent on the appeal proposals. The building already provides reasonably sized accommodation and has an ongoing residential use that would not cease in the absence of the extension proposed. Whilst I am aware that the appellants have put the property up for sale, that is not to say that it does not remain viable for use as a dwelling for another occupier. As such, no public benefits arise from the proposals in this regard.
33. Nevertheless, I appreciate the appellants' desire to stay in their home, for it to be flexible and adaptable, and to cater for their long term needs as well as to allow future generations to live comfortably. I acknowledge that since purchasing the property they have worked hard to restore it and that they see the kitchen extension as the final piece of a long journey. I also accept that the existing kitchen area at the south west end of the building is very small, measuring only 1 by 4 metres with limited usability and functionality and that the proposals would provide a larger accessible kitchen area.
34. The appellants refer to their ongoing health issues and conditions including medical operations which will affect their long term needs and mobility. They also indicate that as a result of these, in the medium to long term they will be unable to access the upper floors of the property.
35. With this in mind, and in response to points raised by the Council, the appellants have considered alternative locations for a new kitchen within the property. The ground floor room in the existing extension has been ruled out due to the need for it to be retained for use as a home office (arising from a change in the appellants' working arrangements in response to the coronavirus pandemic) and/or as an accessible ground floor bedroom with adjacent bathroom (in light of their health conditions).
36. However, whilst I appreciate that the appellants' circumstances have changed since the existing extension was built, as things stand, the appeal property is a good size dwelling sufficient to provide reasonable living conditions and taken as a whole its ground floor floorspace is not particularly small. The Council also draws my attention to an existing two bedroom annex building within the appeal site which provides additional ground floor accommodation.

37. In this context, even taking into account the appellants' stated need for an accessible ground floor bedroom/office, I have seen no compelling evidence to demonstrate that a new kitchen could not be provided within the current extent of the existing ground floor accommodation at the appeal site. Although I accept that some disruption would result from such a re-configuration, this would also be so in the case of the works associated with the construction of an extension. Whilst I note the appellants' view that the location of the kitchen as proposed would allow better management of shopping and cooking facilities and drainage, I am not persuaded that these matters would preclude the siting of a kitchen elsewhere. Additionally, subject to its careful consideration, I see no reason why the provision of a kitchen within the historic part of the building need necessarily be harmful to its fabric.
38. As such, whilst benefits would arise to the appellants from the appeal proposals, these are limited by the factors considered above, and are in any case substantively personal benefits only.
39. Having carefully considered all these matters, I confirm that even taken together, any public benefits of the proposals are insufficient to outweigh the harm to the designated heritage asset that I have identified. For these reasons the proposed development and works would fail to satisfy the requirements of the Act and paragraph 197 of the Framework and would be in conflict with the development plan when taken as a whole.

Other Matters

40. The appellants are dissatisfied with the handling of the applications subject of these appeals and have made complaints to the Council in this regard. These relate to amongst other things the conduct of officers, the effectiveness of the Council's complaints and other procedures, and the reasons why the application under Appeal A was not determined at committee. The appellants feel that they have always adhered to Council guidelines, engaged with officers and worked with the Conservation Officer. They advise that the proposal under Appeal A was worked up in conjunction with the Council's Conservation Officer at that time and supported by previous Conservation Officers. In this context I note that they feel saddened and stressed by the Council's approach.
41. Nevertheless, important as they are, these are matters between the appellants and the Council. I confirm that I have looked at the proposals afresh, had careful regard to all the evidence provided, and accordingly considered the appeal schemes on their individual merits and have made my own assessment as to their potential impacts.
42. The appellants question the consistency of the Council's approach and refer to other larger extensions to listed buildings that have been permitted nearby. The addresses and references have been provided. However, no further details of these are given. This being so, I cannot be sure that the circumstances that led to those permissions are the same as in the case before me. Besides, as set out above, I have considered the appeals on their own merits.
43. The lack of objections from the Parish Council and neighbouring occupiers is also raised by the appellants. However, the absence of alleged harm is not a reason to allow development that I have found to be harmful.

44. As set out above, the appellants refer to their ongoing health conditions that affect their mobility particularly as they reach their older years. The proposals are intended to provide a new accessible kitchen and flexible and adaptable accommodation on the ground floor for the future long term needs of the appellants. In this context, I have had regard to the Equality Act 2010 and the Public Sector Equality Duty (PSED) to which I am subject. Section 149 (7) of the Act sets out the relevant protected characteristics which include age and disability. Since there is the potential for my decision to affect a person(s) with a protected characteristic(s) I have had due regard to the three equality principles set out in Section 149 (1) of the above Act.
45. The negative impacts of dismissing the appeals arise since the house would not be provided with the extension as sought. However, these impacts are mitigated by the possibility of an alternative scheme to meet the appellants' stated needs. As such, in my view the adverse impacts of dismissing the scheme on those with protected characteristics would be proportional having regard to the legitimate and well-established planning policy aims to protect heritage assets. Even when taken alongside the other considerations forwarded by the appellants, the PSED considerations would not outweigh the harm I have identified in this case.

Conclusion

46. For the above reasons, and taking all other matters raised into consideration, I conclude that all three appeals should be dismissed.

E Worthington

INSPECTOR