



Appeal Decision

Site visit made on 15 June 2022

by Paul Thompson DipTRP MAUD MRTPI

an Inspector appointed by the Secretary of State

Decision date: 8th July 2022

Appeal Ref: APP/J1915/W/21/3274513

Elm Cottage, Hare Street, Buntingford, SG9 0EA

- 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 Mr D Mason against the decision of East Hertfordshire District Council.
 - The application Ref 3/20/2623/HH, dated 22 December 2020, was refused by notice dated 25 February 2021.
 - The development proposed is demolition of detached garage. Erection of detached garage/studio outbuilding. Erection of entrance gates and alterations to drive.
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Decision

1. The appeal is allowed and planning permission is granted for demolition of detached garage. Erection of detached garage/studio outbuilding. Erection of entrance gates and alterations to drive at Elm Cottage, Hare Street, Buntingford SG9 0EA, in accordance with the terms of the application, Ref 3/20/2623/HH, dated 22 December 2020, subject to the attached schedule of conditions.

Procedural Matters

2. The Procedural Guide Planning Appeals – England states that *only the person who made the planning application can make an appeal*. In this case, the application was submitted by Mr D Mason, but the appeal was lodged by Mrs Deborah Mason. The applicant has subsequently provided confirmation that the appeal would be pursued by him, so it will continue in the original name of the applicant. I have therefore considered the appeal on this basis.
3. The appellant has submitted an amended plan in support of the appeal (Drawing No 14034-P004-B). While it appears that this was sent to the Council during the determination period of the planning application, it was not the scheme determined by the Council. Having regard to the Wheatcroft principles (Bernard Wheatcroft Ltd v SSE [JPL, 1982, P37]), I am conscious that the appeal process should not be used as a means to progress alternatives to a scheme that has been refused. The appellant has submitted letters of support from neighbouring occupiers, which appear to refer to the alternative scheme, but this is not certain. In the interests of fairness and natural justice, I consider that interested parties would be prejudiced were I to consider the amended plan. My findings therefore relate to the scheme as determined by the Council.
4. The appeal relates to development proposed within the rear garden of Elm Cottage, a Grade II listed building, so it falls within the setting of the property. I must therefore exercise my statutory duty in Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the Act). This requires the

decision maker, in considering whether to grant planning permission for development which affects a listed building or its setting, to have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses.

5. The description of development in the banner heading does not include any alterations to the dwelling. However, the application drawings refer to the erection of a replacement oak post supporting the existing porch and a timber boarded infill to its eastern side. It does not appear that an application was made for listed building consent. My consideration of the appeal does not extend to section 16(2) of the Act, which relates to the grant of listed building consent for works to alter the listed building, including those that do not require planning permission and are therefore outside the scope of this appeal.

Main Issues

6. The Council did not raise any concerns with regard to the proposed entrance gates and alterations to the drive. The main issues are therefore the effect of the proposed garage and studio outbuilding on:
 - the character and appearance of the site and its surroundings, including the setting of the Grade II listed building, known as Elm Cottage.
 - the living conditions of the occupiers of Blossom House, with specific regard to sunlight within and outlook from its garden.

Reasons

Character and Appearance

7. The listed building is of 18th Century or earlier origins. It is a timber-framed cottage clad in stuccoed render and horizontal weatherboarding, with a steeply-pitched thatch roof to the front and side and a pantile roof at the rear. As far as it is relevant to the appeal before me, the significance of the listed building lies in its architectural and historic interest as an 18th Century or earlier timber-framed house. Particularly the ornate form of its thatch roof and how this assimilates with the architectural detailing of its windows and external cladding of the timber frame.
8. The cottage also draws significance from its setting, including how it is experienced from its rear garden and the views available from the house and the street, especially given the close proximity of the building to the footway. The existing detached garage at the side of the property and the prominent nature of parking in its foreground have altered the way in which the cottage is appreciated within its setting, including reduced space around it. However, the front and side elevations of the house remain prominent within the street and the architectural form and detailing to its rear remain prominent within its extensive rear garden. New homes south of the cottage have also altered its setting, but they are arranged in a linear pattern, consistent with the established grain of development in Hare Street and do not inhibit the appreciation of the property in its surroundings.
9. The high quality of the architecture of the cottage, its prominent position at the street frontage, and the visibility of its grounds also make key contributions to the character and appearance of Hare Street.

10. The proposed outbuilding would be sensitively sited to the side and further down the slope of the rear garden, appreciably larger than the garage it would replace, but notably smaller than the cottage, and clad in a sympathetic palette of materials. Hence, the listed building would remain the dominant structure, in size and stature, within the site and outlook would be preserved over its garden. The proposal would also be appreciable as a later addition to the site.
11. Although the proposed gates would maintain some closure of views into the rear garden, the removal of the garage and siting of the outbuilding would increase the space around the property. This would improve the way in which the listed building is experienced from within its setting. The outbuilding would also not be any more prominent than the existing garage and would be similar in appearance to it.
12. Given my appraisal of the effect of existing development around the listed building, I have given very limited weight to the Council's assertion that the setting of the house has been compromised, especially as this could fetter the consideration of other proposals within the site or nearby. Nevertheless, for the above reasons, I conclude that the proposed development would not be harmful to the character and appearance of the site and its surroundings, and it would preserve the setting of the listed building. Hence, the proposal would satisfy the requirements of the Act, and accord with the design and heritage aims of Policies DES4, HA1, HA7, HOU11 and VILL2 of the East Herts District Plan 2018 (DP).

Living Conditions

13. The long side of the proposed outbuilding would be positioned at the boundary with Blossom House, the neighbouring dwelling to the south. The eaves and the highest part of the pitched roof of the structure would be somewhat taller than the boundary fence which currently separates the gardens of the properties. Due to its position at the boundary, the proposal would be conspicuous from the garden of Blossom House, but its height and scale would not appear oppressive or lead to a harmful sense of enclosure, particularly as it would predominantly be the roof of the structure that would be above the height of the existing boundary fence and this would slope away from the boundary. Furthermore, given the orientation of the site, it is also unlikely that the proposal would lead to overshadowing of the garden of Blossom House.
14. For these reasons, I conclude that the proposed development would not have a harmful effect on the living conditions of the occupiers of Blossom House, with specific regard to sunlight within and outlook from its garden. Hence, the proposal would accord with the aims of DP Policies DES4 and VILL2.

Other Matters

15. The proposed gates and alterations to the driveway of the property would be of a sympathetic design and utilise a carefully considered palette of materials. As such, they would not be harmful to the character or appearance of the site and its surroundings, including the setting of Elm Cottage. I note that the Council arrived at a similar conclusion.
16. Immediately to the north of the appeal property is Oak Cottage, a Grade II* listed building. I have therefore had regard to the statutory duty referred to in the Act. However, given the proximity and physical relationship of the proposal

with this designated asset, its setting will be preserved and the proposal will not detract from it. The Council also did not raise any concerns in this regard.

17. Part of the proposed outbuilding would overhang the boundary of Blossom House, but an appellant does not have to own a site to seek planning permission and notice has been served on the owner of that property, who appears to have no objection to the proposal. There is also no evidence that any problems could not be adequately dealt with under legislation covering private legal rights and landownership.
18. The Officer Report outlines that the proposal did not demonstrate compliance with DP Policies CC1 and CC2, which deal with climate change adaptation and mitigation, but such matters could be addressed by planning condition. As such I wrote to the main parties to seek wording for a condition. In response the Council confirmed it has taken an internal officer-level position to not require such conditions on householder applications. However, in the absence of a formal policy position to adopt such an approach, it would be necessary for me to ensure that the development meets the requirements of the policies, so I sought comment on an alternative wording and did not receive any objections from the main parties to its content.

Conditions

19. In addition to the standard time limit for the appeal, in the interests of clarity I have specified the approved plans. Furthermore, in the interests of preserving the setting of the listed building, a condition for the specifications and samples of materials is necessary, but I have altered the condition suggested by the Council as such details could be agreed prior to their use on site. As outlined above, the Officer Report refers to the need for the development to comply with climate change adaptation and mitigation policies of the DP. These details are necessary prior to above ground construction of the outbuilding.
20. The Officer Report also refers to surface water drainage and the Council identified that the method of drainage from the proposal would meet the requirements of DP Policy WAT5. There is no substantive evidence before me to lead me to a different conclusion. The planning condition suggested by the Council would therefore be unnecessary in its current form, but I have amended it to ensure the drainage scheme shown on the application drawing is implemented prior to the building first being brought into use.

Conclusion

21. For the reasons given above, I conclude that the appeal should succeed.

Paul Thompson

INSPECTOR

Schedule of Conditions

- 1) The development hereby permitted shall begin not later than three years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plan: 14034-P004-A.

- 3) Specifications and samples of the materials to be used in the construction of the external surfaces of the development hereby granted shall be submitted to and approved in writing by the local planning authority prior to their use on site. The development shall thereafter be carried out in accordance with the approved specifications/samples.
- 4) Prior to the above ground construction of any part of the development hereby permitted, details of climate change adaptation and mitigation measures shall be submitted to and approved in writing by the local planning authority. The details shall include measures to:
- minimise the overheating in summer and reduce the need for heating in winter;
 - minimise on-site carbon dioxide emissions;
 - minimise the energy embodied in construction materials, through re-use, recycling and the use of sustainable materials and local sourcing; and
 - integrate green infrastructure, such as tree or other planting;

The development shall be constructed in accordance with the approved details and retained as such thereafter.

- 5) Prior to the outbuilding hereby permitted first being brought into use, drainage works shall have been completed in accordance with the details shown on the approved plan.

End of Schedule