



Appeal Decisions

Site visit made on 27 February 2023

by Andrew Smith BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 10 March 2023

Appeal A Ref: APP/T3725/W/22/3303130

**2 Kingswood Cottages, Old Warwick Road, Lapworth, Warwickshire
B94 6LX**

- 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 Zak Miah against the decision of Warwick District Council.
 - The application Ref W/22/0298, dated 16 February 2022, was refused by notice dated 7 June 2022.
 - The development proposed is first floor rear extension over existing flat roof, single storey rear extension, addition of sunpipes to roof.
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Appeal B Ref: APP/T3725/Y/22/3303134

**2 Kingswood Cottages, Old Warwick Road, Lapworth, Warwickshire
B94 6LX**

- 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 Mr Zak Miah against the decision of Warwick District Council.
 - The application Ref W/22/0299/LB, dated 16 February 2022, was refused by notice dated 7 June 2022.
 - The works proposed are first floor rear extension over existing flat roof, single storey rear extension, addition of sunpipes to roof.
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Decisions

1. Appeal A is dismissed, and Appeal B is dismissed.

Preliminary Matters

2. Under Sections 16(2) and 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the Act), the decision maker, when considering whether to grant listed building consent and/or planning permission for any works or development, has a statutory duty to have special regard to the desirability of preserving the building, its setting or any features of special architectural or historic interest which it possesses. With respect to any buildings in a conservation area, Section 72(1) of the Act requires special attention to be paid to the desirability of preserving or enhancing the character or appearance of that area. As the appeal property is Grade II listed and situated within a conservation area, I shall have regard to these statutory duties in determining these appeals.
3. The Council has not raised any specific concerns or objections with respect to the sun pipes referenced in the descriptions of works and development. On this basis, for the purposes of these decisions, I shall focus upon the effects of the proposed extensions.

Main Issues

4. The main issues in respect to both appeals are:
 - Whether or not the proposed works and development would preserve the Grade II listed building known as '1-5 Kingswood Cottages' (the listed building) and any features of special architectural or historic interest that it possesses; and
 - The effect of the proposed works and development upon the character and appearance of the Canal Conservation Area (the CA).
5. An additional main issue in respect to Appeal A is:
 - The effect of the proposal upon the living conditions of neighbouring residential occupiers, having particular regard to outlook and access to light.

Reasons

Grade II listed building – Appeal A and Appeal B

6. The listed building is of likely early 17th-century origin and consists of a row of houses. The row contains a timber-framed cross-gable at the point at which the appeal property is located. This cross-gable exhibits a distinctive Queen-post roof truss to both the front and rear. The listed building's significance and special interest is drawn, in part, from its age, traditional materials, historic fabric and architectural features. This significance and special interest is further underpinned by the building's modest vernacular form, which remains appreciable despite various modern additions having occurred to the rear. These include a flat-roofed extension to the appeal property at ground floor.
7. The Council's Historic Buildings Development Guide (revised September 2010) (the HBDG) is a published document referred to specifically by the Council's Assistant Conservation Officer in their consultation response at planning application stage. It is a relevant guidance document that aims to provide helpful information to those considering extending listed buildings. The HBDG is clear that, where a building is timber framed, it is important to maintain all framing in place and to avoid building over exposed timber framing.
8. Although the proposed first floor rear extension would have a pitched roof, a rear-facing gable-end, and be stepped down when compared to the height of the main ridge, it would represent a considerably sized and unsympathetic addition in a particularly sensitive location. Moreover, various elements of timber framing and a considerable portion of the visible Queen-post roof truss would be concealed by virtue of the scheme. Whilst reference has been made to such elements becoming features internally, this approach is not commensurate with maintaining timber-framed elements in exposed external locations. Furthermore, any possible potential to utilise glazing strips is not reflected in the plans before me and, to my mind, would be unlikely to fully safeguard the authenticity of the listed building's rear facing cross-gable end. It has not been clearly demonstrated otherwise.
9. The proposed single-storey rear extension would be of limited scale and incorporate a pitched roof broadly reflective of both the main roof and the roof form of the intended first-floor addition. Nevertheless, when considered in combination with the existing single-storey rear extension to be retained,

cumulative ground floor enlargements of considerable depth would ensue at odds with the linear plan form of the listed building as originally built. This applies irrespective of the extent of the residential curtilage serving the appeal property. Moreover, when read and experienced in conjunction with the intended first-floor extension, genuinely subservient additions are not proposed. Instead, the planned extensions would detract from the listed building's ability to be appreciated and understood as a modest yet featureful vernacular building.

10. I accept that the proposed extensions would occupy a relatively discreet location to the rear of the listed building. Nevertheless, architecturally significant elements are in place to the rear and listed buildings are safeguarded for their inherent architectural and historic interest irrespective of whether or not public views of the building or any extension to it can be attained. Indeed, even if the impact of the proposal may not be obvious from the public realm, a lack of visibility does not equate to a lack of harm.
11. For the above reasons, the proposal would fail to preserve the listed building and features of special architectural or historic interest that it possesses. The degree of harm that would be caused to the significance of the listed building would, in the terms of the National Planning Policy Framework (July 2021) (the Framework), be less than substantial. Paragraph 202 of the Framework requires less than substantial harm to be outweighed by public benefits, which I shall return to in my Heritage and Planning Balance.

The Conservation Area – Appeal A and Appeal B

12. The CA is comprised of the principal waterways in Warwick District and adjacent lands. The significance and special interest of the CA as a designated heritage asset is drawn, in part, from its relevance to the historic evolution of the national canal network, its diverse character and setting, and its often scenic and picturesque qualities.
13. In the context of the CA's character and appearance, the alterations that are intended, being of modest scale, focused to the rear of the listed building, and stepped away from the canal corridor, would have limited visibility and effect. Nevertheless, I have identified that the planned development and works would fail to preserve the special interest and authenticity of a long-established and important listed building within the CA. In my judgement, there would inevitably be some residual harmful effect upon the character of the CA when taken as a whole, which would not be preserved or enhanced. Therefore, conflict also arises with Section 72(1) of the Act. Under the terms of the Framework the degree of harm to be caused to the significance of the CA would be less than substantial, the implications of which I shall return to below.

Living conditions – Appeal A

14. The Warwick District Council Residential Design Guide (May 2018) (the RDG) advocates a 45-degree rule being applied with respect to both single storey and two storey rear extensions, with the 45-degree line being taken from specified points at neighbouring habitable room windows. Whilst the Council has identified breaches of the rule with respect to both neighbouring properties by virtue of intended development at both ground floor and first floor, it must be noted that these breaches are minor in extent and that the 45-degree rule is

guidance that should be used as a rule of thumb and with some flexibility taking account of individual site and case circumstances.

15. Both the ground floor and first floor extensions would be stepped away a not insignificant distance from the site's south-eastern boundary and be designed with a pitched roof and rear-facing gable end that would have the effect of limiting height at locations closest to No 3 Kingswood Cottages. To the northwest of the site, it was apparent upon inspection that the closest first-floor window opening (serving No 1 Kingswood Cottages) is stepped away from the site. It is also the case that the proposed ground floor extension would be setback slightly from the shared boundary and incorporate a low-level eaves to its north-western side. To my mind, noting the somewhat limited scale of the additions proposed, and when also factoring in the influence of existing extensions both on and adjacent to the site, the proposal would not have unacceptable overbearing or overshadowing effects upon the occupiers of neighbouring properties.
16. For the above reasons, having particular regard to outlook and access to light, the proposal that is the subject of Appeal A would not cause harm to the living conditions of neighbouring residential occupiers. The scheme satisfactorily accords with Policy BE3 of the Warwick District Local Plan 2011-2029 (adopted September 2017) (the Local Plan) in so far as this policy sets out that development will not be permitted that has an unacceptable adverse impact on the amenity of nearby uses and residents.

Other Matters

17. It has been brought to my attention that both planning permission¹ and listed building consent² were granted by the Council in 2008 at the same property for a first-floor extension of similar design to that now proposed. However, these consents were never implemented, and a considerable period of time has since passed. Indeed, a new development plan is now in place and the Framework, which contains policies related to the conservation and enhancement of the historic environment, was first introduced in 2012. The latest version of the HBDG was also published after 2008. Whilst I accept that there are some consistencies when the relevant policies previously in place are compared to those now published and/or adopted, it remains that the policy landscape has appreciably evolved. As such, the 2008 planning permission and listed building consent are of limited relevance to my consideration of these appeals.

Heritage and Planning Balance

18. In terms of the public benefits of the proposal, there would be some limited economic benefits associated with the construction phase. However, in the main, the proposal would ultimately satisfy private needs and wishes, increasing/enhancing living space for the appellant's private enjoyment and to suit modern needs, which would offer no substantive public benefit.
19. Thus, in the circumstances of this case, the scheme's public benefits would be limited and would not outweigh the less than substantial harm that I have identified would be caused to the heritage significance of either the listed building or the CA. Whilst the harm to the CA would be at the lower end of the less than substantial scale, it must be noted that less than substantial harm to

¹ W/07/1490

² W/07/1491/LB

a designated heritage asset, however graded/classified, carries considerable importance and weight.

20. The scheme therefore runs contrary to the clear expectations of Sections 16(2), 66(1) and 72(1) of the Act and fails to accord with the historic environment conservation and enhancement policies contained within the Framework. Conflict also arises with Policies HE1 and BE1 of the Local Plan in so far as these policies require new development to reflect, respect and reinforce local architectural and historical distinctiveness and require less than substantial harm to the significance of designated heritage assets to be weighed against the public benefits of the proposal.
21. Thus, the proposal that is the subject of Appeal A conflicts with the development plan when read as a whole and material considerations do not lead me to a decision otherwise.

Conclusion

22. Whilst I have found that the living conditions of neighbouring occupiers would be safeguarded having particular regard to outlook and access to light, I have identified harms to the heritage significance of the listed building and the CA. These harms are the overriding considerations in the case of both appeals. I therefore conclude that both Appeal A and Appeal B should be dismissed.

Andrew Smith

INSPECTOR