



Appeal Decision

Site visit made on 6 June 2023

by A Veevers BA(Hons) DipBCon MRTPI

an Inspector appointed by the Secretary of State

Decision date: 12 July 2023

Appeal Ref: APP/R0660/W/23/3316904

Pendle Cottage and Lane End, Legh Road, Knutsford WA16 8NT

- 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 Henty Capital Limited against the decision of Cheshire East Council.
 - The application Ref 21/4262M, an undated application, was refused by notice dated 14 October 2022.
 - The development proposed is demolition of 2 no. existing dwellings and garages, removal of 15 no. trees, and the erection 3 no. detached dwellings, new access arrangements and landscaping works.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The address on the application form and used on the decision notice referred to 'Pendle Cottage, Legh Road, Knutsford'. However, the evidence indicates the appeal site encompasses two properties known as Pendle Cottage and Lane End. For the avoidance of doubt, I have amended the address in the banner heading above to include both properties so that there is no ambiguity as to the geographical location of the site.
3. The planning application form is undated. However, the submitted information indicates the Council received the application on 9 August 2021.
4. I have taken the description of development from the application form, omitting wording that is not an act of development.
5. The scheme was amended during the course of the application. The Council determined the proposal on the basis of the amended plans. Additional plans have been provided by the appellant at the appeal stage. The plans include a revised landscape layout and associated revised street scene and aerial photograph. They also provide clarification of building to plot ratios and information about tree coverage in the area. The proposed dwellings and layout itself would remain as originally submitted. The plans do not alter the proposal in a substantive way and the Council and third parties have had the opportunity to comment upon them. Having applied the Wheatcroft Principles¹, I am satisfied that no prejudice would occur to any party as a result of my consideration of their content. Accordingly, my decision is made on the proposal as amended.

¹ *Wheatcroft (Bernard) Ltd v Secretary of State for the Environment* [1982] JPL 37

6. Cheshire East Local Plan Site Allocations and Development Policies Document (SADPD) was adopted in December 2022 after the Council made its decision. The parties have had an opportunity as part of the application and the appeal to comment on the relevant policies of the development plan, including those within the SADPD. I proceed to determine the appeal on that basis.

Main Issues

7. The main issues are:
- Whether the proposed development would preserve or enhance the character or appearance of the Legh Road, Knutsford Conservation Area; and
 - The effect of the proposal on the living conditions of the occupiers of Chimneys, Legh Road, with particular regard to privacy.

Reasons

Legh Road Conservation Area

8. The Legh Road, Knutsford Conservation Area (CA) primarily derives its significance from its spacious residential nature incorporating substantial detached and individual architecturally designed Victorian and Edwardian villas. These are interspersed with more modern dwellings that are predominantly set within large plots containing mature vegetation. Legh Road, amongst other streets in the CA, is tree-lined and includes grass verges and mature boundary hedges, which provides a unified and verdant appearance. Views through the gaps between properties and landscaping behind add to the spaciousness of the area and form part of its intrinsic character.
9. The Legh Road, Knutsford Conservation Area Appraisal 2005 (CAA) confirms that the prestigious and eclectic mix of detached villas set within generous plots are defining features of the character and appearance of the CA with mature tree planting also making a significant contribution.
10. Section 72 (1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the Act), requires that special attention shall be paid to the desirability of preserving or enhancing the character and appearance of the CA.
11. The appeal site occupies a prominent corner plot within the CA, at the junction of Legh Road with Goughs Lane and includes two bungalows located within large gardens. Both properties are accessed off Legh Road by adjacent driveways. While the bungalows are relatively inconspicuous, their substantial plot spacing and mature boundary hedging, including trees protected by Tree Preservation Order (TPO) along the front boundary, makes a positive contribution to the significance of the CA, as it reflects the prevailing spacious and verdant character of the CA.
12. The proposed subdivision of two large plots into three, with new accesses created for two of the proposed dwellings fronting Goughs Lane (Plot 2 and Plot 3) would fundamentally re-orientate the emphasis of the appeal site towards Goughs Lane. The punctuation of boundary vegetation along Goughs Lane by two driveways would interrupt the continuous vegetated boundary between Legh Road and Astley Road and would increase the prominence of the proposed dwellings. This would detract from the verdant character of the area.

13. In terms of the Legh Road frontage, the CAA identifies Legh Road as the spine of the CA. Even though the site is at the juncture of Goughs Lane where more relatively recent development has taken place than the northern end of Legh Road, the proposal would be untypical of the general forward presentation of existing dwellings evident along Legh Road. The appeal site is a corner plot, however, the proposed development would, in part, turn its back to Legh Road. This would fundamentally alter the association of the site with Legh Road, which would not preserve its character.
14. Although landscaping would be introduced along the rear boundaries of Plots 2 and 3, the creation of a boundary contiguous with Legh Road in this location to form rear garden areas would erode the feeling of space between properties that the appeal site currently contributes to. The prominence of the subdivision when glimpsed from Legh Road would be exacerbated by the proximity of the gable elevation of the dwelling on Plot 2 to Legh Road and the limited gap between the gable of the proposed dwelling on Plot 1 with the rear boundaries to Plot 2 and 3.
15. While the proposed external appearance and materials of the dwellings would be acceptable, the overall building to plot ratios and the limited gaps to the side boundaries of Plot 1 would diminish the spaciousness of the site. This is augmented by the scale of the proposed dwellings in proximity to each other. Moreover, the significance of a conservation area does not rely solely on elements that can be seen from the public realm. A gradual erosion of elements that make a positive contribution to the character and appearance of the area can have an adverse effect on its significance as a heritage asset. As a result of the significant erosion of spaciousness on the site, the proposal would fail to respond to the intrinsic character and local distinctiveness of the CA. The proposal would not preserve or enhance the character and appearance of the CA.
16. The appellant's Landscape, Character and Appearance Supporting Statement, Barnes Walker, January 2023 (LCASS) provides details of character areas and plot densities within the CA. Although similar to others in the CA, the proposed building to plot ratios would be more than those predominantly found along Legh Road. With the exception of Lovat Drive, the examples listed in the appellant's Appeal Heritage Statement February 2023 are accessed off Goughs Lane, which has a different character and appearance to Legh Road, as confirmed in the LCASS. From the evidence provided, other examples given by the appellant at Springfield, 21 and 23 Goughs Lane were subdivided some 30 years ago. I note that the CAA highlights, amongst other things, the threat to the character and appearance of the CA as a result of the subdivision of gardens into smaller plots.
17. In support of the proposal, the appellant has drawn my attention to an appeal decision for a nearby site that was allowed². This case involved the demolition of one dwelling and the erection of two dwellings located in the same CA as the appeal before me. The appellant contends that the decision establishes the principle that the subdivision of a plot to allow for the erection of additional dwellings within the CA is acceptable.
18. Whilst I note the approach taken by the Inspector in this case, limited information has been submitted to make a robust comparison between the two

² APP/R0660/W/15/3138101

sites, therefore the full circumstance of the decision is unclear. However, that decision states 'Dwellings on the southern part of Parkfield Road have been built to a higher density than the earlier houses within the Conservation Area such as on Legh Road and Leycester Road, occupying plots with considerably narrower frontages with smaller gaps between buildings than those found elsewhere'. Although relevant, this decision highlights the more spacious character of Legh Road and is therefore not directly comparable. The decision does not limit the scope of judgement in individual case circumstances in other locations, even within the same CA.

19. Indeed, the CAA refers to the generous plot sizes along Legh Road, whereas the LCASS identifies on Parkfield Road, 'Gaps between properties are far narrower than along Legh Road and Leycester Road'. Moreover, the existence of development elsewhere does not represent an appropriate reason to find in favour of a proposal that would cause harm to the character and appearance of the CA, a case I have considered on its own merits.
20. Since the significance of the CA derives in part from the characteristic streetscape along Legh Road, the proposed development would be harmful to the significance of the CA as a whole.
21. The harm to the significance of the CA would be less than substantial in the context of paragraph 202 of the National Planning Policy Framework (the Framework). Whilst the harm I have identified would be less than substantial, it nevertheless is of considerable importance and weight given Paragraph 199 of the Framework states that when considering the impact of a development on a designated heritage asset, great weight should be given to the asset's conservation.
22. Paragraph 202 of the Framework states that where a proposal would lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal.
23. The existing laurel hedging along the frontage to Goughs Lane would be replaced with more appropriate holly hedging, although the proposal would require a large section of the hedging to be removed and as such, I give this neutral weight. Trees would be planted within the proposed gardens and cleft fencing would be erected along the Legh Road frontage which, given the size of the site and that the trees would replace some of those removed as a result of the proposal would be limited benefits of the scheme.
24. The development would optimise the use of land by making a small contribution to housing in a sustainable location. The creation of employment opportunities during the construction phase, with further economic benefits through the spend of future occupants within the local economy would arise. However, given the scale of the proposed development, the benefits would be limited.
25. The proposed development would incorporate elements of sustainable construction and energy measures. However, the evidence presented refers to the utilisation of such measures 'if found to be practicable'. As such, I give this limited weight.
26. I acknowledge the appellant's comments that the detailed design of the dwellings would be of a high standard, however, good design is an expectation

of the planning system rather than a benefit. That the proposal would reuse a vacant site would be a neutral consideration as the proposal would not be the only way to achieve this aim. Even if there were no statutory objections to the proposal, this is a neutral factor and would not weigh in favour of the scheme.

27. Taking all of these matters into account the public benefits of the proposal would not, either individually or in combination, be sufficient to outweigh the less than substantial harm that would be caused to the significance of the CA.
28. Therefore, for the reasons given above, I conclude that the proposal would harm the character and appearance of the area and would fail to preserve or enhance the character or appearance of the CA. As a consequence, the proposal would conflict with Policies SE1, SD2 and SE7 of the Cheshire East Local Plan Strategy 2017 (CELP) and Policies GEN1, HOU12 and HER3 of the SADPD which in combination seek to, amongst other things, ensure that development is of a high quality which contributes positively to an area's character and identity, protects and enhances the borough's heritage assets, their settings and their significance.
29. For similar reasons, it would also conflict with Policies D1, D2, H2, HE2 and HE3 of the Knutsford Neighbourhood Plan 2019. The proposal would fail to satisfy the requirements of the Act and conflict with guidance within Chapter 16 of the Framework regarding the historic environment.

Living Conditions of occupiers of 'Chimneys'

30. The proposed dwelling on Plot 1 would be positioned close to Chimneys, a two-storey detached dwelling. The proposed balcony would sit over the roof of the ground floor and would extend out from the rear elevation of the first floor. It would be enclosed by a screen, the full details of which have not been provided.
31. Although the Council do not have specific guidance relating to balconies, Policy SE1 of the CELP and Policy HOU of the SADPD seek to, amongst other things, ensure an appropriate level of privacy for new and existing residential properties.
32. The rear elevation of the proposed dwelling would sit behind the rear elevation of Chimneys. Nevertheless, the proposed balcony would introduce a projecting vantage point across a significant width of the rear elevation of the proposed dwelling at first floor level. Given the proximity to the boundary, it would afford its users views to the private outdoor amenity space of occupiers of Chimneys. Consequently, there would be intrusion and loss of privacy in this regard to the detriment of the living conditions of the neighbouring occupiers.
33. I recognise there would be a fence, trees and landscaping along the boundary between the two properties. The appellant has also indicated a willingness to provide screening to the proposed balcony and suggests that this could be agreed by way of condition. However, I have not been provided with full details of screening nor substantive evidence that the proposed screen around the balcony or planting along this boundary would prevent views, therefore I cannot be certain that such a structure or planting would be effective. Moreover, any planting would take time to mature and could easily die or be removed. This would therefore not mitigate the harm outlined above.

34. I therefore conclude that the proposal would be harmful to the living conditions of the occupiers of Chimneys, with particular regard to privacy. As such, the proposal conflicts with Policy SE1 of the CELP and Policy HOU of the SADPD as set out above. The proposal would also be contrary to Paragraph 130 of the Framework, which amongst other things, seeks to ensure developments create a high standard of amenity for existing and future users.

Other Matters

35. I note the appellant's willingness to engage collaboratively with the Council and disappointment in respect of the lack of dialogue during the planning application process. However, this has had no bearing on the outcome of this appeal as I have only had regard to the planning merits of the proposal that is before me.

36. I have considered all other matters raised by interested people. However, as I have found the development to be unacceptable for the reasons given, it is not necessary for me to reach a conclusion on these matters.

Conclusion

37. The proposed development would conflict with the development plan taken as a whole. There are no other material considerations of sufficient weight which indicate that a decision should be made other than in accordance with the development plan.

38. The appeal is therefore dismissed.

A Veevers

INSPECTOR