The Planning Inspectorate

Appeal Decision

Site visit made on 19 September 2023

by Chris Couper BA (Hons) Dip TP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 29 September 2023

Appeal Ref: APP/R0660/D/23/3327560
Keepers Cottage, 132 Lewin Street, Middlewich, Cheshire East CW10 9AX

- 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 Katie Graham against the decision of Cheshire East Council.
- The application Ref 22/4729C, dated 30 November 2022, was refused by notice dated 20 July 2023.
- The development proposed was described as 'removal of porch and construction of new porch to the side with balcony over; dormer loft conversion to the side elevation; solar panels and complete render of the property.'

Decision

1. The appeal is dismissed.

Procedural Matters

2. Amended drawing no. 3184-02 Rev A was submitted during the Council's consideration of the application. The amendments to the originally submitted plans included the removal of the proposed render, the removal of the proposed balcony over the porch, and the reduction in the width of the proposed dormer and the introduction of pitched sections to its sides.

3. Notwithstanding the description of the proposal in my banner, I have considered this appeal on the basis of that amended drawing, on which the Council also made its decision.

4. The host property is known as Keepers Cottage and 132 Lewin Street, but to avoid confusion with the nearby statutorily listed lock-keeper's cottage, I refer to it as 'No 132'.

Main Issues

5. The main issues are the effect of the proposed development on:

   - The character and appearance of the host property and the area, including whether or not it would preserve or enhance the character or appearance of the Trent and Mersey Canal Middlewich Kent Green Conservation Area ('the KGCA'), and its effect on the setting of listed buildings; and

   - The living conditions of adjacent occupiers, with particular regard to overlooking.

Reasons

Character and appearance

6. Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 states that, in respect of development affecting conservation areas, special attention shall be paid to the desirability of preserving or enhancing their character or appearance. Section 66(1) requires that special regard shall be paid to the desirability of preserving a listed building or its setting, or any features of special architectural or historic interest which it possesses.

7. The National Planning Policy Framework 2023 ('Framework') sets out that harm to the significance of a designated heritage asset, such as a listed building or a conservation area, should require clear and convincing justification. Policy SE 7 of the Cheshire East Local Plan Strategy 2010 – 2030 (2017) ('CELPS'), and Policies HER 3 and HER 4 of the Cheshire East Site Allocations and Development Policies Document (2022) ('CESAD') reflect the statutory tests, and are consistent with the Framework's approach.

8. On its southern boundary, No 132 abuts the KGCA. The Heritage Statement by Stephen Haigh Buildings Archaeologist, provided in accordance with CESAD Policy HER 1, sets out that the special interest of the KGCA derives from the historical and architectural value of the canal corridor and the features within it. These include three Grade II statutorily listed buildings in the vicinity of the site – the Middlewich Branch of the Shropshire Union Canal lock-keeper's cottage ('the lock keeper's cottage'); the canal lock adjacent to the junction with the Trent and Mersey Canal (commonly known as 'Wardle Lock'), and Trent and Mersey Canal bridge number 168 ('the canal bridge').

9. In common with the overwhelming majority of nearby buildings, No 132 has a fairly simple, principally two storied, gabled form, with plain, sloping roofs. Its southern elevation includes a main gable and a smaller gable feature, and regular, modestly-proportioned windows with cambered heads. In these regards, it reflects the style and form of the facing elevation of the early nineteenth century lock-keeper's cottage directly opposite it on the other side of the canal within the KGCA. In my view, despite its modern age, it does therefore architecturally acknowledge the historic canalside setting.

10. The scheme would include the provision of a dormer on No 132's northern elevation, which would extend to the ridgeline and would cover most of the sloping roof. At this scale, it would dominate the host's roof, and it would give the resultant building a significant bulk at second floor level. It would therefore be at odds with the form and mass of other buildings in the area, including those on Ashfield Street to the north.

11. On its southern elevation facing the KGCA, the scheme would include flat-roofed elements at ground and first floor level. Whilst the ground floor extension would have a limited height and it would be largely screened from public view by hedgerows, the first floor section, which would break the host's eaves line, would be much more prominent. It would give the resultant building a rather awkward, rectilinear form. This, together with the removal of the host's gable features, and the introduction of large vertically proportioned glazing panels at first floor, would be at odds with the style and form of the lock-keeper's cottage. It would thus cause a modest degree of harm to the setting of that listed building, and to the setting of the KGCA.

12. Given the markedly different form, function and character of Wardle Lock and the canal bridge compared to No 132, along with the considerable distance to the latter, the significance of those designated heritage assets would not be harmed.

13. However, the harm that I have found would be caused to the setting of the KGCA, and to the setting of the lock-keeper's cottage is a matter to which I attribute great weight. As the harm caused to them would be 'less than substantial', in accordance with the Framework, CELPS Policy SE 7, and CESAD Policy HER 4, I am required to weigh it against the public benefits of the proposal.

14. In its favour, the proposal would provide the existing, and any future, occupants with additional space and thus improved living conditions. However, that benefit would be largely private, relating to the enjoyment of the house by its occupants.

15. The appellant also states that the removal of the gables is essential to maximise photovoltaic generation, which is a clear public benefit. However, even if that is the case, this does not address all my concerns with regards to the form and appearance of the first floor section of the scheme. Additionally, it appears to me that a smaller area of solar panels could be installed whilst retaining those gables. Therefore, I find no public benefits that would outweigh the harm that I have found. The proposal would thus conflict with the Framework, CELPS Policy SE 7, and CESAD Policies HER 3 and HER 4.

16. Given the harm that I have found would be caused to the character and appearance of the host property and the area, the scheme would also conflict with CELPS Policies SE 1 and SD 2, and CESAD Policies GEN 1 and HOU 11. Amongst other things, and in general terms, these require high quality design, which makes a positive contribution to its surroundings, and which maintains a strong sense of place, having regard to matters such as height, scale, form, mass and design features; and state that extensions should be in keeping with the scale, character and appearance of their surroundings, and subordinate to the existing dwelling.

Living conditions

17. The proposed dormer would be served by five windows. Based on drawing no. 3184-02 Rev A at least some of these would be obscurely glazed. The dormer would accommodate bedrooms, but those are habitable spaces, and in this elevated position, if some of those windows were to be clear glazed there would be a direct view at close quarters down into the nearby rear gardens at 5 and 7 Ashfield Street, and beyond that to their rear elevations.

18. That would result in a harmful degree of overlooking and loss of privacy to the significant detriment of those occupiers' living conditions. If, on the other hand, those windows were to be obscurely glazed, it would not provide the occupants with an outlook, and they would thereby experience poor living conditions.

19. The appellant states that, with minor amendments, it is likely that a dormer window could be provided without the need for planning permission. However, I have no details of such a scheme, and I have dealt with the proposal before me on its planning merits.

20. As CESAD Policy HOU 13 is principally directed at new housing development such as residential estates, it appears to me to be of little, if any, relevance on this issue. However, for the above reasons, the scheme would conflict with those parts of CELPS Policy SE 1 and CESAD Policy HOU 12 which require development proposals to achieve an appropriate level of privacy for existing residential properties. It would also conflict with the Framework's requirement at paragraph 130 to create places with a high standard of amenity for existing and future users.

Planning Balance and Conclusion

21. The appellant points out that objections from the conservation officer were resolved as a result of the amendments to the scheme. However, having considered the proposal on its planning merits, I conclude that it would harm the setting of designated heritage assets and the character and appearance of the host property and the area; and that it would harmfully impact the living conditions of adjacent occupiers. The scheme's limited public benefits would not outweigh the harm that it would cause.

22. The scheme would conflict with the development plan when considered as a whole, it does not benefit from the Framework's presumption in favour of sustainable development and, having regard to all other matters raised, the appeal is therefore dismissed.

Chris Couper

INSPECTOR