



Appeal Decision

Site visit made on 15 August 2023

by N Bromley BA Hons DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 29.09.2023

Appeal Ref: APP/A0665/D/23/3320472

Stoak Cottage, Little Stanney Lane, Stoak, Chester CH2 4HW

- 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 Graham Calvert against the decision of Cheshire West and Chester Council.
- The application Ref 21/03108/FUL, dated 23 July 2021, was refused by notice dated 31 January 2023.
- The development is a freestanding rear timber sundeck.

Decision

1. The appeal is dismissed.

Preliminary Matters

2. I observed at the time of the site visit that the freestanding timber sundeck was completed. Therefore, the development is retrospective, and I have dealt with the appeal on that basis. However, the constructed development does not fully reflect the plans that I have before me. In particular, the plans show an 'L' shaped fitted bench at the base of the sundeck structure. I consider that this omission does not affect the issues in this appeal which I have determined on the basis of the submitted plans and details.

Main Issues

3. The main issues are;
 - i. The effect of the development on the character and appearance of the host dwelling and whether it preserves the setting of the listed building comprising Stoak Cottage and Stoak Farmhouse, and in the event that any harm is identified, whether that harm would be outweighed by any public benefits of the proposal; and
 - ii. The effect of the development on the living conditions of the neighbouring occupiers at Stoak Farmhouse, with particular regard to privacy.

Reasons

Character and appearance of the host dwelling and setting of the listed building

4. The appeal property is part of a grade II listed building, which is a seventeenth century former farmhouse that has now been split into two properties (referred to as Stoak Farmhouse in the listing description), now known as Stoak Farmhouse and Stoak Cottage. The farmhouse side of the building is two storeys with steep gables, including attic space in the roof. That part of the

building has a commanding presence due to it being the main part of the building, whereas Stoak Cottage, which is attached to the former farmhouse, is a former cheese loft, has a shallower roof pitch and lower ridge height. It also has a catslide roof on its rear elevation. A single storey barn building is located to the rear. The arrangement of the buildings forms a cluster of attractive buildings positioned around a former central farmyard. The buildings have white rendered walls and slate roofs, which add to the character and appearance of the buildings as a group.

5. Under section 66 (1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the Act) I am obliged 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.
6. The cluster of buildings occupy a prominent position along Little Stanney Lane, within the attractive hamlet of Stoak. The central farmyard has been sub-divided by fences to define the garden areas of the residential properties, but the unique and attractive character of the buildings, along with their hierarchy, has been conserved. The character of the buildings, with similar features, along with the arrangement as a small cluster of buildings and the position within the hamlet, are important factors in the significance of its setting.
7. The raised timber sundeck has been constructed at the rear of the building within the small rear courtyard of Stoak Cottage which is sub-divided from Stoak Farmhouse by a timber fence to create two separate private garden areas. The courtyard to Stoak Cottage is small but appears as a proportionate amount of space for the cottage. It is enclosed by the timber fence on the boundary with Stoak Farmhouse, a barn to the north and a high rendered wall on the boundary with Little Stanney Lane.
8. The sundeck is constructed from thick timber posts, balustrading, and handrails. A two-tier seating platform is accessed by a set of (four) steps that have been laid with artificial grass. The structure is not attached to the main cottage, but it is located close to the rear elevation. The appellant has set out that the nature of the structure and its construction, result in it not being a permanent structure. However, it is fixed to the ground and will be permanently on the land.
9. The sundeck is a substantial structure by virtue of its height, footprint and bulk. This is exacerbated by the amount of timber used in its construction, when compared to the more traditional materials of the host property, which results in the sundeck having a stark appearance when viewed against the host property and within the context of the small cluster of buildings around the former farmyard. Its scale and position is dominant, and is not of a proportionate size within the small courtyard. On this basis it represents an incongruous structure that significantly changes the visual appearance of the site. It also changes and results in harm to the character of the small cluster of buildings, which is a significant part of the setting of the listed building.
10. I acknowledge that the sundeck structure provides storage space to avoid the visual clutter caused by waste bins and other domestic paraphernalia, and the structure avoids the need for an outbuilding within the site. I also note that there are limited views from any main vantage points due to the enclosed nature of the site. It is also advanced that there are aspirations to cultivate a vertical garden, to add interest to the structure and an otherwise dull area of

the site due to its enclosed nature. However, no substantive details have been submitted and I have therefore not been able to consider what benefits, if any, the vertical garden would achieve. Overall, the points, as set out, do not significantly address or outweigh the harm caused by the development that I have identified above.

11. Furthermore, whilst I observed the pergola at the Bunbury Arms during my site visit, this does not appear to be a comparable development. I also have limited details of its circumstances before me. Accordingly, as I am required to do, I have determined the case before me on its own merits.
12. For the reasons set out above, the development harms the character and appearance of the host dwelling and fails to preserve the setting of the listed building comprising Stoak Cottage and Stoak Farmhouse. As such it is contrary to Policies ENV6, DM3, DM21 and DM47 of the Cheshire West and Chester Council Local Plan (CWCLP) and the Cheshire West and Chester Council's adopted Supplementary Planning Document: House Extensions and Domestic Outbuildings (SPD), which together, amongst other things, seek to promote high quality design that is in keeping with the character and appearance of the original dwelling, and the wider setting; and protect the setting of a listed building.
13. I have had regard to paragraph 199 of the National Planning Policy Framework (the Framework), which requires great weight to be attributed to the asset's conservation irrespective of the level of harm identified. In this case, due to the fairly small-scale nature of the development the harm caused to the significance of the setting of the listed building would be less than substantial. Any harm to a designated heritage asset should require clear and convincing justification and where this relates to less than substantial harm, this should be weighed against the public-benefits of the proposal, in accordance with paragraph 202 of the Framework.
14. The appellant has set out that the erection of the fencing by neighbours has resulted in the loss of light to the rear courtyard patio and the sundeck now provides the occupiers with sunlight for much of the day which they say is not possible from the existing patio area. The sundeck also provides an area under it for the storage of waste bins and bicycles. Additionally, the water feature incorporated under the raised deck attracts local bird life. However, these benefits are insufficient to outweigh the less than substantial harm identified or provide any clear and convincing justification for the substantial structure and harm caused to the setting of the listed building.

Living conditions

15. The timber sundeck is elevated off the ground and has two different levels, with a seating area on each level, although the submitted plans show one of the areas as a 'hammock area'. The footprint and height of the timber sundeck allows the occupiers of the property to sit and stand for prolonged periods of time. It allows views towards the rear elevation of the adjoining property, Stoak Farmhouse, and its rear garden area. The dividing timber fence is tall enough to obscure some views of the neighbouring rear garden area, particularly from the lowest part of the timber sundeck but nonetheless there are direct views of the neighbouring rear garden from it.

16. The appellant has suggested reasons why the raised sundeck does not cause loss of privacy to the neighbouring occupiers. In particular, it is suggested that the neighbouring occupiers do not use the rear garden area because it is north facing and is in shade for much of the day. It is also outlined that they have two further patio areas elsewhere at their home. Nonetheless, it is an area of private garden space that can be enjoyed by the occupiers of the dwelling.
17. The raised sundeck, by virtue of its height and proximity to the neighbouring property, increases the level of overlooking, which significantly reduces the level of privacy for the occupiers of this dwelling.
18. Consequently, the development results in unacceptable harm to the living conditions of the occupiers of Stoak Farmhouse with particular regard to privacy. Therefore, it conflicts with Policies SOC5, DM2 and DM21 of the CWCLP, and with the requirements of the SPD, which together, amongst other things, seek to protect the living conditions of existing occupiers from significant adverse impacts of development.

Other Matters

19. The appellant has expressed concerns about attempts by neighbouring properties to extinguish an existing Right of Way (RoW) through the site and neighbouring land by the erection of fences, which is alleged to prevent the use of the RoW. It is alleged that these fences do not have planning permission. However, I have no substantive evidence of the planning circumstances regarding the fences in question and on this basis, I have determined the appeal on the current situation and the evidence before me.

Conclusion

20. For the reasons outlined above, and taking account all other matters raised, I conclude that the appeal should be dismissed.

N Bromley

INSPECTOR