



Appeal Decision

Site visit made on 3 October 2023

by S Ashworth BA (Hons) BPL MRTPI

an Inspector appointed by the Secretary of State

Decision date: 30 October 2023

Appeal Ref: APP/R0660/W/23/3320228

Keeper's Cottage, Manor Park Road, North Rode, Cheshire CW12 2PG

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for planning permission.
 - The appeal is made by Carl Welford against Cheshire East Council.
 - The application Ref 22/3480M, is dated 30 August 2022.
 - The development proposed is demolition of existing house and detached garage. Proposed new-build dwelling.
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Decision

1. The appeal is dismissed and planning permission is refused.

Application for costs

2. An application for costs was made by Cheshire East Council (the Council) against Carl Welford. This application is the subject of a separate Decision.

Preliminary Matters

3. Planning law requires that applications for planning permission be determined in accordance with the development plan, which in this case includes the Cheshire East Local Plan Strategy 2010-2030 (CELPS) and the Site Allocations and Development Policies Document (SADPD) 2022, unless material considerations apply.
4. Although the planning application was undetermined, the Council has provided a statement of case setting out the policies relevant to the proposal and the reasons it considers the proposal to be unacceptable. The appellant has had the opportunity to comment on that statement and I have taken all representations into account in reaching my decision.
5. Whilst I have no details of it, I have been made aware that a subsequent planning application has been made to the Council for an alternative proposal. In determining the appeal before me, I have considered the plans submitted to the Council under application ref: 22/3480M only.
6. The Council has raised concerns as to whether the application site accurately reflects the domestic curtilage of the building and whether the recently constructed garden room constitutes lawful development. These are not matters before me to consider in the context of a s78 appeal.

Main Issues

7. The main issues in this case are:

- The effect of the proposal on the character and appearance of the area with particular regard to the size of the proposed dwelling, its design, proposed landscaping and effect on trees.
- The effect of the proposal on the heritage significance of the existing building.
- The effect of the proposal on biodiversity.

Reasons

The effect of the proposal on the character and appearance of the area

Principle of the development having particular regard to its size

8. Keepers Cottage is an extended detached house dating from at least 1898 set in a long rectangular plot which encompasses part of an area of broad-leaved woodland. The house stands alone in a rural area and is accessed from the nearest main road via a long narrow track through farmland. Whilst there are sporadic clusters of residential development in the vicinity, including farmsteads and some individual dwellings, the land surrounding the site is predominantly comprised of open fields, hedgerows, individual mature trees and pockets of woodland. There is no dispute between the parties that the site lies within the open countryside for planning purposes.
9. Policy PG6 of the CELPS sets out that within the open countryside, only development that is essential for the purposes of agriculture, forestry, outdoor recreation, public infrastructure, essential works or uses appropriate to a rural area will be permitted, with a permitted number of exceptions. Those exceptions include the replacement of existing buildings (including dwellings) by new buildings not materially larger than the buildings they replace. The acceptability of such development will be subject to compliance with other policies in the Local Plan. Policy RUR13 of the CELPS sets out similar criteria for replacement dwellings outside of settlement boundaries and provides advice on what should be taken into account in assessing what would constitute a materially larger dwelling.
10. The existing dwelling is a two-storey building comprising what is considered to be the original cottage on the southern side, with single and two-storey additions to the north of it. Although the extensions are significant, the building read as a whole has a modest form and appearance. In contrast the proposed dwelling would be a substantial H shaped building which the Council calculate is some 22% larger than the existing house and the detached garage in terms of its floorspace. In addition, the proposed dwelling would be over 1m higher to the roof ridge, almost 6m wider and over 3m deeper than the existing building. Notwithstanding its altered position in the site, the new building would extend beyond the existing footprint of the building. Furthermore, in purely visual terms the proposed dwelling would appear bulkier in terms of its form and massing.
11. I note that replacement garaging is not proposed but rather car parking would be accommodated on an extended area of hardsurfacing. Whilst not currently

required by the appellant it seems to me that garaging might reasonably be expected by residents in future particularly given the likely value of the property. Such a structure would further add to the volume of development on site. However, even if there were no garaging at the site in perpetuity, in both spatial and visual terms the proposed dwelling would be materially larger than the existing building and in that respect the proposal would not meet the policy test set out.

Design

12. Policies PG6 and RUR13 also require that particular attention should be paid to design and landscape character in order that the appearance and distinctiveness of the Cheshire East countryside is preserved and enhanced.
13. The site lies within the Alderley Edge and West Macclesfield Wooded Estates Landscape Character Area and is part of the Bollin Valley and Parklands Local Landscape designation. Within such areas, Policy SE4 of the CELPS requires development to, amongst other things, incorporate appropriate landscaping which reflects the character of the area through appropriate design and management; preserve and promote local distinctiveness; conserve and enhance the quality of the landscape and protect it from development which is likely to have an adverse effect on its character and appearance.
14. The Cheshire East Local Landscape Review notes that 'the landscape features a number of 18th century parkland with mansion houses and woodlands, listed farmhouses, barns and cottages which combine to create a distinctive sense of place. The influence of the estates are evident in the surrounding farmlands including the stock of specimen oaks within field and along boundaries'.
15. The site lies to the western side of an historic parkland estate associated with North Rode Manor House, a grade II listed building and its stables which are also a listed building. The original dwelling was built as a gamekeepers cottage in connection with the manor house and estate, with its principal elevation overlooking the landscape to the south.
16. The original cottage has been extended over time in a somewhat sporadic manner. Nevertheless, the external design and massing of the extensions are sympathetic to the character of the building such that to my mind the dwelling as a whole has retained a modest cottage-like appearance. Moreover, features of architectural interest on the original southern section, including deep overhanging eaves, recessed windows with decorative hood mouldings and prominent chimneys have been retained. The appellant's heritage assessment demonstrates that some of this detailing reflects that of the listed manor house and other estate buildings including the Hall, church, village hall and other cottages on the estate. On that basis the dwelling makes a positive contribution to the character and appearance of the countryside and particularly to local distinctiveness.
17. The proposed dwelling has been designed with an 'H' shaped form to appear as two linked barns, one wing containing two storeys of accommodation the other a single storey, linked by a partially glazed link. Externally, the building would be clad in stone and charred timber.
18. I understand that the design rationale has been informed by the local agricultural context and I noted the presence of timber clad agricultural

buildings in the local area. However, these buildings are generally farm buildings rather than new-build dwellings and are generally associated with a cluster of buildings on a farmstead, rather than being in an isolated location. In any event, with two tall stone clad chimneys, extensive areas of glazing, including significant glazing almost to the line of the eaves on the south elevation, I am unconvinced that the building closely resembles an agricultural building. Moreover, the site itself has a quiet, part domestic, part woodland character as part of a larger historic estate. In that context the design of the building, its sizeable form and massing and the bulky utilitarian appearance of the western side, would be out of place.

19. I acknowledge that the site is partly obscured by trees, although it can be seen in long range views and is likely to be more obvious in the winter months when trees are not in leaf. Whilst the charred timber would appear recessive in the landscape the scale of the building would be apparent, and the significant amount of glazing is likely to mean that the building is prominent in the hours of darkness as a result of internal lighting.
20. Therefore, in terms of its design, for those reasons the proposal would be contrary to Policies SD1, SD2, SE1 and SE7 of the CELPS and Policies GEN1, HER1, HER7, and RUR13 of the SADPD which in various ways and amongst other things seek to provide a locally distinct, high quality, sustainable environment, encourage the re-use of existing buildings, contribute to protecting and enhancing the natural, built and cultural environment and avoid design solutions that do not establish and/or maintain a strong sense of quality and place.

Landscaping and effect on trees

21. The proposal is accompanied by sketch landscape proposals indicating areas of wild and ornamental planting to the south side of the dwelling, a wild flower meadow to the north and various outbuildings across the site, the details of which are not before me for consideration. I acknowledge that the scheme aims to enhance biodiversity and I noted that the appellant has undertaken a significant amount of work in the woodland to remove invasive species and encourage rewilding. However, given the partly wooded nature of the site and its agricultural, parkland setting which comprises open fields and mature trees, I am unconvinced the planting scheme would be appropriate in its context. In addition, it seems to me that any benefit to biodiversity would be diluted by the loss of trees and the inclusion of external lighting. I acknowledge the appellant's point that the landscaping of a domestic garden may not in itself require planning permission. Nevertheless, given the landscaping scheme has been submitted as part of this proposal I must have regard to it.
22. Policy ENV6 of the SADPD requires the layout of development proposals to be informed and supported by an arboricultural impact assessment (AIA). There is some doubt as to the timing of the AIA in this case. The policy goes on to require that trees, woodlands and hedgerows considered worthy of retention should be sustainably integrated and protected in the design of the development to ensure their long term survival. Where the loss of significant trees is unavoidable, replacement tree planting should be provided, of a commensurate amenity value to the trees that were lost and to secure environmental net gain.

23. The AIA submitted with the scheme assesses all trees on the site, which total some 53 including those in the woodland, and indicates those to be lost as a result of the development. I note there is a degree of discrepancy, in terms of which trees are to be removed, between the proposed site plan, the landscape plan and the plans accompanying the arboricultural assessment. The Council does not object to the loss of the trees on the western boundary, a row of predominantly hawthorn trees identified as being of low quality, or to the loss of ornamental or non-native trees, and I have no reason to disagree.
24. However, the proposal appears to indicate the loss of a beech tree (T42) noted as being of good quality, to facilitate the parking area. At some 12m in height this tree makes a positive contribution to the wider landscape, as does T12, a Norway Maple, also of good stature, which is shown on some plans as being removed. In addition, the proposed site plan indicates the loss of an oak tree (T39) some 17m tall, assessed as being a high value tree in good condition with a lifespan of more than 40 years. I understand that notwithstanding this plan, it is the appellant's intention to retain that tree, but nevertheless the proposed hardsurfacing would encroach significantly into its root protection area. Whilst a 'no dig' area could be secured by planning condition, it seems to me that the potential threat to the health and longevity of that tree is unnecessary.
25. For these reasons the proposal would be contrary to Policies PG6, SD1, SD2, SE1 and SE4 of the CELPS and Policies ENV3 and ENV5 and ENV6 of the SADPD which amongst other things require development to incorporate appropriate landscaping which reflects the character of the area, promote local distinctiveness and protects the historical qualities of the area, respect and where possible enhance the landscape character of the area including through appropriate landscaping, and retain and protect trees.
26. To conclude on the first main issue, taking all of these matters into account, as a result of the significant increase in built form on the site, the inappropriate design of both the replacement building and the proposed landscaping, and the potential loss of trees, the proposal would have a significant harmful effect on the character and appearance of the countryside and would fail to preserve local distinctiveness.

The effect of the proposal on the heritage significance of the existing building

27. Annex 2 of the National Planning Policy Framework (the Framework) identifies a heritage asset as 'a building...identified as having a degree of significance meriting consideration in planning decisions because of its heritage interest. It includes designated heritage assets and assets identified by the local planning authority'. Whilst not a listed building, the Council consider the cottage to be a non-designated heritage asset. The appellant's heritage consultant also acknowledges it has some heritage significance.
28. The primary significance of the building as a heritage asset lies in its historic association with the North Rode Manor House and estate, of which it formed part until the 1920s. It provides significant social and evidential value, particularly in terms of understanding how the estate originally functioned. In addition to that it has some limited architectural value, in terms of its scale and its detailing including the hooded mouldings set out above. The appellant's Heritage Statement also notes original internal features including a lintol in the hall, five plank service doors and the southern staircase. The modest scale and

- appearance of the cottage and its proximity to and orientation towards the countryside with which it was functionally associated, and its reasonably close proximity to the Hall and other estate buildings adds to that significance.
29. Paragraph 203 of the Framework requires that the effect of an application on the significance of a non-designated heritage asset should be taken into account in determining the application. In weighing applications that directly or indirectly affect non-designated heritage assets, a balanced judgement will be required having regard to the scale of any harm or loss and the significance of the asset. The same requirement is set out in Policy HER7 of the SADPD.
30. Whilst the extensions to the building have had a negative effect on the heritage significance of the building, in respect of its loss, it is proposed to demolish the entirety of Keepers Cottage. Thus, the scale of its loss is total.
31. I acknowledge that internally the limited size and inconvenient layout of the rooms in the extension do not readily lend themselves to modern family living. In addition, the building, which has apparently been unmaintained for some time, is showing signs of neglect and damage, including signs of damp and mould. However, there is no evidence before me that there is any significant structural damage or that the building is incapable of repair and adaptation.
32. On that basis, whilst I acknowledge the issues with the existing building, I do not have sufficient information to determine whether these issues are so significant that they outweigh the great harm to the significance of the heritage asset which would result from its demolition. Accordingly, given the existing building has sufficient significance in its local context, its removal is not been justified.
33. For these reasons the proposal does not with comply Policy SE7 of the CELPS which requires the character, quality and diversity of the historic environment to be conserved or enhanced and, specifically in terms of non-designated heritage assets, sets out a presumption that heritage assets should be retained and re-used wherever practicable and proposals that cannot demonstrate that the harm will be outweighed by the benefits of the development will not be supported.

Effect of the proposal on biodiversity

34. The planning application was accompanied by an Extended Phase 1 Habitat Survey and Daytime Bat Survey and Bat Emergence Surveys by qualified ecologists. Those surveys provided evidence of bats emerging from within the house with points of access being on the northern and western elevations. The survey concluded that the property is in use as a day roost for a small number of Soprano Pipistrelle, Common Pipistrelle and Brandt's bats. The demolition of the building would, accordingly, mean the loss of the roost.
35. In order to mitigate this loss the report recommends the incorporation of bat boxes into the fabric of the new development as it is being built. In addition, the ecologist recommends that the development is timed and monitored to reduce the risk proposed to bats. The Council is satisfied that the mitigation proposed is acceptable but nevertheless it seems to me that a replacement day roost would be unavailable until the new development was at least partially completed.

36. Bats are a legally protected species and it is an offence to, amongst other things, damage or destroy the resting place of such species¹. Activity which would lead to such an offence can only go ahead if Natural England has issued a European Protected Species Licence. Whilst it is not my duty as a decision maker in this appeal to apply the licensing tests to the proposal before me, I have had regard to them.
37. There is no convincing evidence before me that the development is necessary for preserving public health or safety or for other imperative reasons of overriding public interest. In addition, whilst I acknowledge that an alternative scheme has been submitted to the Council for consideration, it is unclear whether alternatives to the proposed scheme, including the alteration and/or extension of the building, have been fully explored and ruled out. On that basis, even though the conservation status of the species would be maintained, I am not convinced a licence would be granted by Natural England.
38. In that respect therefore, the proposal would not meet the requirements of Policies SP1, SE3 of the CELPS and ENV1 and ENV2 of the SADPD which require in various ways that development should not have a significant adverse impact on biodiversity but should aim to positively contribute to its conservation and enhancement.

Other Matters

39. I acknowledge that the proposed dwelling would provide suitable family accommodation to meet the needs of the appellant. However, this is a private benefit that can carry little weight in my considerations. The intention to build the dwelling to high environmental standards, including solar panels and heat pumps, is a positive element of the scheme. However, it seems to me that any gain in that respect would need to be balanced against the harm to the environmental principles of sustainability caused by the demolition of the existing building. Accordingly, this matter, whilst a benefit of the proposal, carries limited weight in my considerations.
40. The appellant has drawn my attention to a number of sizeable new dwellings of varying designs built in the Cheshire East area which the Council identify as being some distance from the site. Whilst they demonstrate that new development can be acceptable in the district, I do not know the context or circumstances in which these dwellings were approved. It seems to me unlikely, given the significance and physical context of Keepers Cottage, that the developments indicated are directly comparable to the proposal before me. I have in any event determined the proposal on its own site-specific circumstances.

Conclusion

41. For the reasons set out above, the proposal is contrary to the development plan. There are no material considerations that indicate that permission should be granted otherwise. Therefore, taking all other matters raised into account, the appeal is dismissed and planning permission is refused.

S. Ashworth

Inspector

¹ Under The Conservation of Habitats and Species Regulations 2017 & The Wildlife and Countryside Act 1981