



Appeal Decision

Site visit made on 10 October 2023

by A Veevers BA(Hons) DipBCon MRTPI

an Inspector appointed by the Secretary of State

Decision date: 1 November 2023

Appeal Ref: APP/R0660/W/22/3309204

2 Croft Lane, Knutsford, Cheshire WA16 8QH

- 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 Mr A Mines, Greenhouse Property Management Ltd, against Cheshire East Council.
 - The application Ref 22/3073M, is dated 29 July 2022.
 - The development proposed is 1 No. Contemporary House.
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Decision

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

Preliminary Matters

2. I have taken the description of development from the application form, omitting wording that is not an act of development.
3. The appeal was made following the failure of the Council to give notice of their decision on the application within the statutory period. The Council have subsequently provided a statement for the purposes of this appeal, highlighting that it would have refused the application for several reasons. The appellant and third parties have had the opportunity to comment on the Council's statement. I have had regard to this statement in framing the main issues.
4. During the course of the application the scheme was amended. The Council assessed the proposal on the basis of the amended plans, as have I.
5. The appellant's appeal statement refers to the saved policies of the Macclesfield Borough Local Plan 2004 (MLP) and the emerging Cheshire East Site Allocations and Development Policies Document (SADPD). The SADPD was adopted on 14 December 2022, after the submission of the appeal. The Council confirm that the SADPD replaces all the saved policies from the MLP. I have received copies of the relevant adopted SADPD policies and both main parties and other interested parties have had an opportunity to comment on them. I have therefore taken the relevant SADPD policies into consideration in reaching my decision.
6. The appeal site is close to the Midland Meres and Mosses Ramsar site, a European Habitats site, and its component Tatton Mere Site of Special Scientific Interest (SSSI). I have a statutory duty under the Conservation of Habitats and Species Regulations 2017 (as amended) (the Regulations) to consider the potential impacts on this statutorily protected site. I refer to this matter later in my decision.

Main Issues

7. The main issues are:

- Whether the proposal would preserve or enhance the character or appearance of the Legh Road Conservation Area;
- The effect of the proposal on trees; and
- Whether the proposal would provide acceptable living conditions for future occupiers, with particular regard to daylight and sunlight.

Reasons

Legh Road Conservation Area (LRCA)

8. The appeal site is located within the LRCA and therefore I have a statutory duty under Section 72(1) of the Planning (Listed Buildings and Conservations Areas) Act 1990 (the Act) to pay special attention to the desirability of preserving or enhancing the character or appearance of that area. The LRCA is generally characterised by an eclectic mix of large, detached villas set within spacious plots containing mature vegetation. Toft Road marks the western boundary of the LRCA and the appeal site. It is a heavily trafficked road which, in the area surrounding the appeal site, is fronted by mature trees with overhanging canopies. Filtered views of dwellings set back from the road and screened by trees, hedges or fences can be obtained from the road.
9. As set out in the Legh Road, Knutsford Conservation Area Appraisal 2005 (CAA), the area around Croft Lane is more rural in character than other parts of the LRCA. The narrow and winding lane is believed to be an old route used for agriculture prior to the growth of the town in the 19th century. The sunken nature of the lane in parts together with the more domestic scale of the cottages along it highlight its historic significance in the evolution of the area. Plots sizes along Croft Lane are diverse in shape and size, reflecting the earlier origins of development within this part of the LRCA. The presence of mature trees, woodland and vegetation in the vicinity of the appeal site provides a unified and verdant appearance to the LRCA which is intrinsic to its character.
10. The significance of the LRCA derives primarily from the large and varied mix of individually architecturally designed Victorian and Edwardian detached villas set within generous plots amongst tree lined streets and mature boundary hedges which provide a sylvan setting. There is also significance derived from the contribution that dwellings and streets in the LRCA make individually and collectively to the appreciation of Knutsford's 19th century expansion and the prevailing architectural styles of the time.
11. The appeal site was part of a former garden associated with 2 Croft Lane (No. 2), a traditional semi-detached dwelling that lies to the south and identified the CAA as a building of townscape merit. A close boarded timber fence has been erected along the boundary with No.2, which appears conspicuous when viewed from the heavily vegetated lane. Levels vary across the site, with land closest to Toft Road being higher than land at the entrance to the site off Croft Lane. The lane is lower than the site along the northern boundary, which is formed of a vegetated bank. Some trees within and around the site have been protected by Tree Preservation Order (TPO). These, and

other trees on the site contribute positively to the character and appearance of the LRCA.

Proposals and effects

12. The proposal would introduce a detached dwelling of contemporary design on the site. It would fill a significant width of the plot and have a central three-storey element. The significant scale of the proposed dwelling, even though it would be partially set into the sloping site, would result in a building with a bulky and overly imposing presence. It would be such that the built form would overwhelm this modest corner plot when viewed from Croft Lane.
13. Significant effort has been made to seek to break up the massing of the building through subterranean accommodation and by positioning the three-storey block centrally, away from the sides. The use of various external good quality materials prevents an overly monotonous façade. Nevertheless, notwithstanding the measures aimed at limiting the perception of the scale of the building, the dark standing seam steel cladding surrounding the glazed balconies on the front elevation, the extensive use of brown vertical cladding on the side elevations and their boxlike form, would serve to draw focus to the overall height of the building and emphasise its mass and scale which would be conspicuously prominent when viewed from Croft Lane and when glimpsed through vegetation on Toft Road.
14. The pre-cast concrete stepped approach to the first floor/living area identified on the plans would be extremely close to the boundary and positioned at a higher level than Croft Lane. The steps, retaining wall and glazed balustrade would be highly visible and overly prominent when viewed from the lane, with little space for planting to screen the development along the embankment. Even though the proposed dwelling would provide an obvious frontage to both aspects of Croft Lane, it would appear uncharacteristically cramped given the limited space to the embanked boundary and would not be representative of the verdant character of the area.
15. I am mindful that the National Planning Policy Framework (the Framework) advises against discouraging appropriate innovation, originality and change. However, the Framework also sets out that it is proper to seek development that is sympathetic to local character and history, and that maintains a strong sense of place. The Cheshire East Borough Design Guide 2017 (CEDG) similarly advises that the use of vernacular is not about creating pastiche developments which awkwardly reflect the past, it is also about respecting the context of a site and using cues creatively in a modern context.
16. In this regard, there would be significant difference to the proportionality of the proposed dwelling when compared to No.2, which would be emphasised by the proximity of the proposed dwelling to the boundary with No.2. The height and solid form of the side elevation facing No.2 would jar considerably with the, albeit extended, modest architectural composition of the traditional gable end of No.2 and would not respect the cohesive and harmonious arrangement common to houses along Croft Lane.
17. While there are several contemporary, sizeable buildings elsewhere in the LRCA, the examples provided by the appellant do not form such an immediate visual relationship to the appeal site and the immediately surrounding area in the same way as No.2 does within this street scene.

18. Furthermore, although there is no requirement for development to replicate existing properties, Policy HE3 of the Knutsford Neighbourhood Plan 2019 (KNP) advises that generally, new buildings within the LRCA should be no more than two storeys high. Given the significant contrasting scale and form of the proposal, exacerbated by the bulky and substantial two-storey overhang and the lack of vegetation to the front of No.2, it would appear disproportionately large when seen in the context of other properties along the lane.
19. I conclude that the proposal would detract from the prevailing character of the area and be visually harmful to an important view identified in the CAA when approaching from the south along Croft Lane. Consequently, the proposal would result in significant harm to the character and appearance of the LRCA and therefore diminish the significance of this designated heritage asset. The harm would be less than substantial and in accordance with paragraph 202 of the Framework, that harm should be weighed against any public benefits of the proposal.

Heritage balance and conclusion

20. The appellant has advanced the argument that there would be public benefit arising from the provision of a dwelling of contemporary design and the opportunity for a more environmentally efficient dwelling than the extant planning permission¹ (the fallback scheme). The fallback scheme is a material consideration because there is more than a theoretical possibility of the development being carried out, particularly in the event of the appeal being dismissed given that work has already begun on clearing and levelling the site.
21. The approved plans for the fallback scheme are before me and it is clear that it would not be as large in footprint or height as the appeal scheme. Furthermore, a substantial gap would be retained between the gable elevation of the fallback scheme and Croft Lane, providing a greater vegetated buffer along this boundary. In contrast, the appeal dwelling would extend almost the full width of the plot and would be three storeys in height across a substantial part of the building.
22. Although the design and materials of the proposal would be contemporary and there may be occasions where old and new can sit comfortably side-by-side, in this case there are objective issues, as I have already set out above, which lead me to conclude that the effect of the proposed development on the character and appearance of the LRCA would be harmful. Consequently, the existence of the fallback scheme would not justify the harm arising from the development in terms of built form.
23. The proposed dwelling would offer environmental benefits due to the use of renewable energy sources and energy efficiency. It would add to the supply and choice of housing in an urban area. The construction works and related expenditure would provide a boost to the local economy and local employment during the period of the works, although this would be for a limited period. A further benefit would accrue from an electric charging point to promote sustainable travel. Nevertheless, some of these benefits would also apply to the fallback scheme. Taking all these matters into account in respect of public benefits, I give them moderate weight in support of the appeal proposal.

¹ LPA Ref: 20/1848M

24. The Framework advises that when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation, irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance. The proposal would result in less than substantial harm to the significance of a designated heritage asset but that is a matter of considerable importance and weight. The public benefits identified do not outweigh that harm.
25. Given the above, the proposal would not preserve or enhance the character or appearance of the LRCA. It would be contrary to the Act and it would conflict with Policies SD1, SD2, SE1, SE4, SE7 of the Cheshire East Local Plan Strategy 2017 (CELPS). It would also conflict with Policies GEN1, ENV5, HER1, HER3 and HOU10 of the SADPD and Policies D1, D2, D3, D4, HE2, HE3 and H2 of the KNP. Together, these policies, amongst other things, seek to ensure that developments make a positive contribution to their surroundings including protecting and enhancing the defining characteristics of conservation areas.
26. Furthermore, it would not comply with guidance in the CEDG which includes such matters as design, character areas and green infrastructure, amongst other matters. Neither would it accord with the approach in Section 16 of the Framework which is concerned with the conservation and enhancement of heritage assets.

Trees

27. The submitted Arboricultural Impact Assessment² (AIA) identifies those trees that have already been removed on the site and those that would be retained. Much of the central part of the site has already been cleared and a construction access has been created from Croft Lane. In addition, a close boarded timber fence has been erected within the root protection area (RPA) of T5 and close to T4 along the Toft Road boundary.
28. The footprint and patio areas of the proposed dwelling would be close to the RPAs of T4 and T5. While the dwelling would not be constructed within the RPAs, due to the substantial ground level differences across the site, the construction of the dwelling would require incursion into the higher land closest to these trees and the creation of retaining structures. From the evidence provided in the AIA and the juxtaposition of the proposal it is unclear what effect this would have on the protected trees.
29. There is a high probability that the works required to construct the dwelling would necessitate the use of some mechanical equipment to excavate the ground. As such the likelihood of root damage occurring would be high. The ability of the trees to tolerate damage to the rooting area is already likely to be limited by the age of the trees. Consequently, there remains a likelihood that harm would occur to the health of protected trees as the result of the construction of the proposal and the submission that has been made fails to discount this.
30. Furthermore, Policy SE5 of the CELPS requires that where impacts on significant trees are unavoidable, development proposals must satisfactorily demonstrate a net environmental gain by appropriate mitigation, compensation

² Arboricultural Impact Assessment. Yew Tree and Gardens, dated 30 August 2022

or offsetting. The disproportionate coverage of built form, driveway, parking and useable outdoor private amenity space on the site would leave little space for meaningful replacement trees or soft landscaping, particularly along the Croft Lane frontage, which is a fundamental character of the LRCA. No detailed landscaping plan has been provided demonstrating the height and spread of proposed trees.

31. I conclude, on this main issue, that the submission fails to demonstrate that there would not be harm to protected trees. Furthermore, there is no certainty that a scheme for replacement planting would satisfactorily compensate for tree and vegetation loss or contribute positively to the character and appearance to the same degree as that which currently exists.
32. The proposal would therefore conflict with Policies SD1, SD2, SE4 and SE5 of the CELPS; Policies ENV6, ENV6 and HER3 of the SADPD and Policies D3 and HE3 of the KNP. Collectively, these policies seek, amongst other things, to retain trees, hedgerows or woodlands that provide a significant contribution to the amenity, biodiversity, landscape character or historic character of the surrounding area. The proposal would not comply with paragraphs 131 and of the Framework which recognises the importance that trees make to the character and quality of urban environments.

Living Conditions

33. Some trees along the boundary with Toft Road and Croft Lane have far reaching canopies which would provide shade to much of the dwelling and its outdoor amenity space, particularly during late afternoons and winter months when the sun would be low in the sky. No assessment has been provided by the appellant in relation to daylight or sunlight. Nevertheless, even though the footprint of the proposed dwelling is close to the trees, the main first-floor living/kitchen/dining room and snug includes a significant amount of floor to ceiling glazing to three elevations. The second-floor master lounge similarly contains extensive glazing to two elevations. I am therefore satisfied that sufficient daylight and sunlight would penetrate these rooms.
34. Furthermore, the outdoor private amenity space at the rear would be at a similar ground level to the first-floor of the proposed dwelling and would be a reasonable size. Due to their elevated positions, the first-floor rear patio area and central lawned part of the rear amenity space would not be overshadowed to the extent that it would be harmful to living conditions.
35. Overall, I am satisfied that the proposal would provide acceptable living conditions for future occupants, with particular regard to daylight and sunlight.
36. Accordingly, the proposal would comply with Policy SD2 of the CELP and Policy HOU10 of the SADPD which both seek to ensure, amongst other matters, that new development provides open space of an extent, quality, design and location appropriate to the development and do not unacceptably harm the amenities of future occupiers due to loss of sunlight and daylight. The proposal would also comply with the provisions of paragraph 130 of the Framework insofar as it seeks to ensure new developments provide a high standard of amenity for existing and future users.

Other Matters

37. There is a Grade II* listed building, Bexton Croft, located to the west of the appeal site on Toft Road. The significance of the building is derived from its Arts and Craft architecture, materials and age. Although the building is glimpsed from the appeal site, the site is physically and visually separate from this designated heritage asset and its setting due to Toft Road and intervening vegetation.
38. To the east of the appeal site are two Grade II listed buildings, The Old Croft and Brae Cottage. The significance of The Old Croft is derived from its association as Richard Harding Watt's home, its age and materials. The significance of Brae Cottage is derived from the Paul Ogden designed neo-17th century style buildings from brick with stone dressings, half timbering and stone flagged roof. Due to the distance and intervening buildings, the appeal site is not visible from or has any association with either listed building.
39. Accordingly, I agree with the Council's conclusion that the setting of these listed buildings would be preserved and there would be no conflict with section 66(1) of the Act or the heritage protection policies of the Framework in this regard.
40. Midlands Meres & Mosses Phase 1 Ramsar site and its component Tatton Mere SSSI are designated for open water and peatland habitats. They support nationally important flora, fauna and an assemblage of rare wetland invertebrates. Natural England were consulted during the course of the application and confirmed that the proposal would not have likely significant effects on the European Habitat site. In determining the application, the Council concurred with this view.
41. It is incumbent upon me as the competent authority to consider whether the proposed development would be likely to have a significant effect on the integrity of the European Habitat site. However, although I have a statutory duty in this regard, as I have found that the development is unacceptable for other reasons, it is not necessary for me to further consider the implications on the European Habitat site.
42. Even if I were to agree that there would be no unacceptable effects on neighbours' living conditions, highways, nature conservation and drainage, this is a neutral factor which would not outweigh the harm identified and conflict with the development plan as a whole.
43. 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 address these in further detail. Issues of land ownership are matters beyond the scope of this appeal.

Conclusion

44. Whilst I find no harm to the living conditions for future occupiers with particular regard to daylight and sunlight, the proposal would not preserve or enhance the character or appearance of the LRCA. In addition, the submission fails to demonstrate that there would not be harm to protected trees. The proposed development therefore conflicts with the development plan when considered as a whole and the Framework. There are no other material considerations of sufficient weight to lead me to conclude otherwise.

45. Accordingly, for the reasons given, the appeal is dismissed.

A Veervers

INSPECTOR