



Appeal Decision

Site visit made on 20 February 2024

by J Somers BSocSci (Planning) MA (HEC) MRTPI IHBC

an Inspector appointed by the Secretary of State.

Decision date: 21 March 2024

Appeal Ref: APP/P3040/D/23/3335679

27 Main Street, Keyworth, Nottinghamshire NG12 5AA

- 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 Ms Sue Kemmer against the decision of Rushcliffe Borough Council.
 - The application Ref 23/01565/FUL, dated 15 August 2023, was refused by notice dated 13 November 2023.
 - The development proposed is described as 'construct detached garage with store over; car port; external access stair to store.'
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Decision

1. The appeal is dismissed insofar as it relates to the external staircase, pedestrian door and external access to first floor level, along with the 1.8m screening.
2. The appeal is allowed insofar as it relates to the increase in height to the Garage and the change in height and roof form of the Carport; and planning permission is granted for the increase in height to the Garage and the change in height and roof form of the Carport at 27 Main Street, Keyworth, Nottinghamshire NG12 5AA in accordance with the terms of the application, Ref 23/01565/FUL, dated 15 August 2023, so far as relevant to that part of the development hereby permitted and subject to the following conditions:
 - 1) The increased height of the car port and garage shall be maintained in accordance with the approved plans, unless further planning consent is obtained from the Local Planning Authority:
 - 'Plans and Elevations as Proposed - Resubmission,' Drg No.700.01RevC, Dated August 2023;
 - 2) The materials used in the construction of the exterior of the development hereby permitted must be similar in appearance to the materials used as seen on site.
 - 3) Notwithstanding the approved plans, within 6 months of the date of the approval of this consent, the external door and doorway at first floor level of the garage (noted as 'Side Elevation' on the above approved plan in Condition No.1) shall be removed and blocked up with matching bricks; and the external staircase, and associated screening dismantled and removed from the building. This will then be maintained in perpetuity, unless further consent is granted by the Local Planning Authority.

Preliminary Matters

3. The Carport and Garage already have planning consent¹ in terms of their placement, footprint, materials and fenestration. As such, I shall not revisit these matters within this letter. The differences between the approved scheme and this proposal and which this appeal decision will be concerned with includes the change in roof form and height of the carport from lean-to to pitched and gabled; the increase in height of the Garage, and the erection of an external staircase, doorway at first floor level with 1.8m screening for the length of the staircase.
4. Much of the application is retrospective, with the carport, garage and external staircase already having been constructed. Whilst there was screening erected to the platform of the external staircase that accesses the first floor door was in situ, the screening along the stairs as noted within the proposed plans had not been constructed. As such, I have made my decision on this basis.
5. I note that both parties in their appeal documents reference the paragraphs of the National Planning Policy Framework 2021 (the Framework). Since the submission of the appeal, the 2021 version of the Framework has been superseded by the 2023 version. The wording of the paragraphs of the new Framework relevant to this appeal remain unchanged from the 2021 version (except for new paragraph numbers) and therefore did not require to be reassessed by either party in relation to this appeal. I have considered the appeal on this basis and refer only to the updated 2023 Framework within my decision.

Main Issues

6. Taking the above into account, the main issues are whether the change in roof form and height of the carport; the increase in height of the Garage, and the erection of an external staircase, doorway at first floor level with 1.8m screening for the length of the staircase would:
 - Preserve the setting of the listed buildings known as 'Barn at No.31' (Grade II); '19 Main Street' (Grade II); '17 Main Street' (Grade II); 15 Main Street (Grade II); and 'Barn adjoining No.15 and attached range of outbuildings' (Grade II) and the effect of the proposal upon the character and appearance of the greater locality, with special attention given to the Keyworth Conservation Area (CA); and
 - Affect living conditions of No.31A Main Street, with particular consideration to sense of enclosure and privacy.

Reasons

Legislation and Policy

7. Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 (PLBCA) prescribes a duty upon a decision maker to give special regard to the desirability of preserving the significance of a listed building or its setting. Additionally, Section 72(1) of the PLBCA, in respect of development affecting conservation areas, states that special attention shall be paid to the desirability of preserving or enhancing the character and/or appearance of the area.

¹ Council Planning Ref:23/01565

8. In terms of National Policy, paragraph 205 of the Framework states that great weight should be given to an asset's conservation, irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to their significance. Paragraph 206 of the Framework states that any harm to, or loss of, the significance of a designated heritage asset should require clear and convincing justification. Paragraph 208 requires that, where a proposal would lead to 'less than substantial harm,' the harm should be weighed against the public benefits of the proposal, including securing its optimum use. Paragraph 135 of the Framework seeks that decisions are sympathetic to local character and history, including the surrounding built environment, while not preventing or discouraging appropriate innovation or change.
9. In relation to local planning policy, Policy 1 of the Rushcliffe Local Plan Part 2: Land and Planning Policies (LPP2) and Policy 10 of the Rushcliffe Local Plan Part 1 Core Strategy (CS) are both design policies which set a number of design principles for assessing appropriateness such as that the scale, density, height, massing, design, layout and materials of the proposal is sympathetic to the character and appearance of neighbouring buildings and the surrounding area. These policies also reinforce the need to ensure development does not cause impacts to the amenity of occupiers and nearby residents. LPP2 Policy 28 seeks that applications affecting heritage assets demonstrate an understanding of their significance, and that development is sympathetic to the character and appearance of the asset, and conserves or enhances the character and appearance of an asset by an assessment of siting, scale, building form, massing, height, materials and quality of detail, amongst others.

Site Description

10. The appeal site is a recently constructed single storey outbuilding of rectangular footprint and simple pitched and gable roof construction, with walls constructed in brick with a tiled roof. The building lies to the rear of the main dwelling, a historic building which has no setback from the road edge. Whilst the presence of the garage does present as an anomaly to the predominant linear built form along the road edge, it's one and a half storey nature and functional design together with the open garden to the side assist in giving the building a subservient appearance and lower status in the locality.

Listed Building Considerations

11. Whilst the 'Barn at No.31'; '19 Main Street'; '17 Main Street'; 15 Main Street; and 'Barn adjoining No.15 and attached range of outbuildings' individually will have their own elements of significance and heritage value, the main considerations in this appeal is with regards to whether the appeal site contributes to the significance and setting of these listings and the resultant effect (if any) as a result of the development.
12. Main Street is a historic High Street, whilst maintaining retail shops some of the historic buildings take the form of agricultural buildings, such as the Barn at 31 and barn at 15 (both seventeenth century with 19th Century components). The buildings are of vernacular construction to the locality, are functionally designed buildings along with a workers dwelling at No.15 which

contributes to an understanding of the former form and function of the historic village and its layout and how the buildings are experienced, reinforcing their rural location, identity and setting. Whilst these functional buildings have no setback from the road edge, larger historic buildings such as Nos 17 and 19 Main Street are higher status and more formal dwellings that are set back from the road edge with more subservient buildings to the rear. Like many of the historic buildings along Main Street, other than the more higher status No.17 and No.19 Main Street, the buildings are relatively modest in size and functional in their design and positioned in a linear fashion along the road edge with no setback from the footpath. Gaps in and around the dwellings with open rear gardens with smaller outbuildings give a hierarchy in built form with main uses to the road edge, with smaller outbuildings and garden space to the rear. These are some of the important elements that make up the setting of these listings and this setting is integral to each of the building's significance.

13. The appeal site is experienced as part of the greater collection of buildings and spaces within the locality and is deliberately of a functional and modest scale and design which seeks to blend in with the form that is experienced within this locality. Whilst not ideal, the increased height of the garage building, together with the change in roof form of the carport would appear appropriate within this context, which contains functional outbuildings which are subservient in scale, form and appearance to the existing buildings. Whilst I appreciate explanation from the Appellant as to the different design options employed, the amendments and reasoning for the proposed external staircase and associated screening; given the functional design, and vernacular of materials used in the building as constructed and that of surrounding outbuildings, the proposed development presents an awkward juxtaposition to the existing building. The staircase as constructed has a very modern and industrial appearance together with its excessive height and screening adds unnecessary clutter to the existing building and would be unlike anything in the surrounding area. The staircase together with the screening would overcomplicate the design of the existing building, departing from its deliberate modest and functional appearance and would not reinforce the positive characteristics and local distinctiveness of the building, the surrounding buildings or its relationship with the greater locality.
14. The staircase and associated screening would create a distraction from the rural feeling and experience in this location. The proposal bears little relationship to the existing building, layout, authenticity, character and local distinctiveness of the area and would be a discordant form that would erode the experience and relationship of the surrounding listed buildings which is an important component to their setting. The extension would be architecturally and historically inauthentic and be detrimental to the existing building as well as to the character and appearance of the locality. Whilst I agree with the appellant that the increased height of the garage and change in roof form would be appropriate as constructed, there remain concerns around the external staircase and associated screening and its relationship with the context, character and layout of the village which are important considerations as highlighted in LPP2 Policies 1 and 28 and CS Policy 10.
15. Whilst I appreciate that the Council and the Appellant have not found harm to the significance of the listed buildings through development within their setting, I have found there to be shortcomings in the assessment of significance which has predominantly focussed on views and that harm appears to have been discounted as a result of the proposal's visibility within the street scene. S66 of

the PLBCA does not limit its duty to what is purely visual with there being a need to consider both tangible and intangible aspects which contribute to the significance of a listing and its setting. After considering these additional elements of significance which contribute to the setting of the listing, it is clear to me that there is 'less than substantial' harm caused to the significance of the surrounding listings as a result of development of their setting.

16. Taking the above into account, and in conclusion of this matter, the increased height of the garage and change in roof form of the carport would be in accordance with LPP2 Policies 1 and 28, and CS Policy 10 and would cause neutral harm to the significance of the surrounding listings from development within their setting. The external staircase and associated screening would fail to preserve the setting of the Grade II 'Barn at No.31'; '19 Main Street'; '17 Main Street'; 15 Main Street; and 'Barn adjoining No.15 and attached range of outbuildings.' As such the external staircase and associated screening would be contrary to LPP2 Policies 1 and 28, and CS Policy 10.

Conservation Area Considerations

17. The significance of the CA is detailed within the Keyworth Conservation Area Appraisal. The area where the appeal site lies is historically the village's principal thoroughfare, this road is characterised by its informally arranged collection of cottages, farmhouses, houses, worker's terraces and courtyards of traditional farm buildings. The appeal building which lies to the road edge at the front of the appeal site is noted as a 'key unlisted building.'
18. The raising in height of the garage and the change in roof form of the carport would be appropriate in scale, form, materials and appearance when considering the character and appearance of the existing buildings and those of the surrounding locality. As such there would be neutral harm to the character and appearance of the CA as a result of the increased height of the garage and change in roof form of the carport.
19. However, the external staircase and associated screening would create an incongruous development which is not subservient to the existing building and would not reinforce the modest and functional nature of the buildings in the surrounding locality. I can appreciate comments from the Appellant that the scheme is deliberately modern, and this is an accepted and recognised form of being 'honest' in a historic setting which can sometimes be appropriate. However, in this particular case, the staircase and screening creates an awkward and dominant form of development that is overcomplicated in its design and would not present an appropriate architectural approach that would be considered sympathetic to the existing building or taking into the context of the surrounding buildings. Whilst I appreciate that the staircase is not visible from public vantage points, visibility is not the only consideration to be had as part of assessing the character, appearance and local distinctiveness of the area.
20. Whilst I appreciate that the Council and the Appellant have not found harm to the significance of the CA (although the Keyworth Conservation Area Advisory Group objected to the installation of the staircase), I have found there to be shortcomings in the assessment of significance which has predominantly focussed on views and that harm has been discounted as a result of the proposal's visibility within the street scene. S72 of the PLBCA does not limit its duty to what is purely visual with there being a need to consider both tangible

and intangible aspects which contribute to the significance and character and appearance of the CA. After considering these additional elements of significance which contribute to the character and appearance of the CA, it is clear to me that there is 'less than substantial' harm caused to the character and appearance of the CA.

21. Taking the above into account, and in conclusion of this matter, the increase in height of the garage and change in roof form of the carport would be generally appropriate and made in accordance with LPP2 Policy 10, and CS Policy 1, and cause neutral harm to the CA. The external staircase and associated screening would not be a sympathetic development and would be harmful to the architectural authenticity and integrity of the existing building as a result of its disproportionate bulk and massing. Consequently, the proposal would not preserve or enhance the significance of the CA and would cause 'less than substantial harm' to the CA. The scheme would be contrary to LPP2 Policies 1 and 28, and CS Policy 10 as described previously.

Living Conditions

22. Although the Reason for refusal states that the increase in height of the garage and the roof form of the carport would cause overlooking opportunities, it is unclear from the Officer's Report how this would occur given that the carport is at single storey, whilst the increase in height of the garage in itself would not increase opportunities for overlooking. The external staircase given its location close to the boundary would result in significant overlooking opportunities, and as evidenced on my site visit, direct views of the neighbouring kitchen/diner of No.31 Main Street are achievable via the rooflights. I do agree however that once all of the screening is installed, that this would limit overlooking opportunities, and given that this is a staircase, rather than a platform that people would stand on for long periods, or use frequently, the perception of overlooking would be substantially reduced. Whilst I agree with interested parties that the small gaps around the screening or the height of the screening at 1.8 metres does not completely eliminate overlooking, the screening would reduce the level of harm caused to living conditions to a more acceptable level.
23. Turning to sense of enclosure, there is a sufficient setback which accommodates the increased height of the garage, and as such would not result in an adverse sense of enclosure towards No.31. The carport change in roof form at single storey in height would also not result in adverse impacts towards living conditions as a result of sense of enclosure. The external staircase is directly visible from the rooflights of No.31 as shown in the Appellant's Statement of Case (SoC), however the rooflights are secondary windows to the Kitchen/Diner, as well as there being a sufficient access to sky and light as a result. Whilst I agree that there will be some impact from the sense of experiencing a stairwell and screening in direct line of sight from the rooflight, it would not be to a level where there would be significant adverse impact to the living conditions of No.31.
24. In conclusion of this matter, the increase in roof height, changing in roof form of the carport and external staircase with screening would not cause adverse harm to living conditions as a result of access to light, or privacy, and therefore would be compliant with LPP2 Policy 1 and CS Policy 10 as described previously. Additionally, the scheme would be compliant with the design policies of the Framework.

Balancing Exercise

25. Whilst elements such as the increased height of the garage and carport have been seen to cause neutral harm, the external staircase and screening has been found to fail to preserve the setting of the listed buildings as required by S66 and fail to preserve or enhance the character and appearance of the CA as required by S72 in accordance with the expectations of the PLCBA and the Framework at Paragraph 205 as described previously.
26. Although serious, the harm to the significance of the listing and the CA would both be 'less than substantial,' within the meaning of the term in paragraph 208 of the Framework. Paragraph 206 states that any harm to, or loss of, the significance of a designated heritage asset should require clear and convincing justification. Paragraph 208 requires that, where development would lead to less than substantial harm, the harm should be weighed against the public benefits of the proposal.
27. The public benefits of the scheme are not outlined within the Appellant's SoC, however would have resulted in short term employment opportunities in the construction of the car port and garage and improve the living space for the existing occupiers. These benefits would also be present in a scheme which was more in accordance with the development plan. Overall, and in conclusion of this matter, the public benefits arising from the external staircase would not outweigh the harm I have identified and to which I accord considerable importance and weight. The scheme therefore conflicts with the Framework, as per paragraph 206, as described previously. The proposal would not therefore be made in accordance with the development plan.

Other Matters

28. I note that there are submissions to the appeal from interested parties over concerns such as the ability of the garage to be used as a one bedroom flat. The application is not for a change of use for a flat, and such a use would require planning consent. As such this matter is not relevant to this application and therefore is not a consideration.

Conclusion and Conditions

29. For the reasons given above, I conclude that the appeal should succeed in relation to the change in roof form of the carport, together with the increased height of the garage. However, in relation to the external staircase and associated screening, the appeal should be dismissed. As the external staircase is both physically and functionally severable, I consider a split decision would be a logical outcome.
30. In respect of the appeal being allowed, the Council has issued a list of recommended conditions which I have considered against the Framework and the National Planning Practice Guidance which advises that conditions should only be imposed where they are necessary, relevant to planning and to the development to be permitted, enforceable, precise and reasonable in all other respects.

31. Suggested condition 1 is an approved plans condition which is a standard condition which is necessary and for the avoidance of doubt as this provides certainty to the scheme which has been approved. Suggested condition 2 is a matching materials condition which is necessary to enable external facing materials to be in-keeping with the existing buildings and surrounding context, with the location in the setting of listed buildings and within the conservation area. A time limit condition in this respect is not required due to the development being retrospective. Suggested Condition 3 seeks that the garage building not be occupied for other purposes than ancillary to the residential dwelling and that the garage shall not be sold or let separately. The garage as an ancillary building would already be ancillary, and the planning system has no ability to enforce or control whether a property is sold or let. As such this suggested condition No.3 is not relevant to planning, is unenforceable and is unnecessary. As such this condition is not taken forward into this decision. Suggested condition No.4 relates to the screening which is not relevant to the approval.
32. Condition No.3 is a new condition² that seeks the removal of the staircase, screening and the blocking up of the first floor doorway which is necessary in order to make the development acceptable.

J Somers

INSPECTOR

² Both parties were written to by email with regards to their opinions on the condition and given 7 days to respond with any clarifications or opinions.