

Appeal Decision

Site visit made on 9 April 2024

by D J Barnes MBA BSc(Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 26 April 2024

Appeal Ref: APP/A0665/D/23/3335752

Broomheath Cottage, Platts Lane, Tarvin, Chester CH3 8HR

- 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 and Mrs R Cunningham against the decision of Cheshire West and Chester Council.
 - The application Ref 23/00684/FUL, dated 1 March 2023, was refused by notice dated 16 October 2023.
 - The development is the demolition and re-construction of a boundary wall and widening of access and hardstanding.
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Decision

1. The appeal is dismissed insofar as it relates to the hardstanding. The appeal is allowed insofar as it relates to the demolition and re-construction of a boundary wall and widening of the access and planning permission is granted for the demolition and re-construction of a boundary wall and widening of the access at Broomheath Cottage, Platts Lane, Tarvin, Chester CH3 8HR in accordance with the terms of the application, Ref 23/00684/FUL, dated 1 March 2023 and subject to the following conditions:
 1. The development hereby permitted shall be carried out in accordance with the following approved plans so far as they are relevant to that part of the development hereby permitted: 23014-PJA-00-00-DR-A-1000; 23014-PJA-00-00-DR-A-1001-D; 23014-PJA-00-00-DR-A-1002-D and 23014-PJA-00-00-DR-A-1003-B.

Procedural Matters

2. The application form describes the development as the demolition and reconstruction of a wall and the widening of the access. However, the appeal form references the Council's decision notice by adopting a description of development which includes hardstanding associated with the parking area. The evidence presented by the appellants addresses the planning circumstances of both the distinct elements of the appeal scheme, namely the wall and the parking area.
 3. There is some consideration in the evidence as to whether, in isolation, the hardstanding for the parking area could be erected as permitted development associated with a dwelling house. Although the appellants' submissions on this matter have been carefully noted, there is no equivocal confirmation of this
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being the case in the Planning Officer's report that just refers to such permitted development rights as could be being true. In the absence of any Lawful Development Certificate, it is not for this appeal to determine whether the replacement of the tarmac and broken paving slabs surfacing of the original parking area by the reconfigured parking area with a bound porous resin surface could be permitted development. Accordingly, this appeal has been determined based upon the description of development stated on the decision notice and appeal form.

4. The amendments of the National Planning Policy Framework (the Framework) were published in December 2023 after the appeal application was determined. These amendments do not alter the basis upon which this appeal has been assessed.

Main Issue

5. It is considered that the main issue is whether the development preserves or enhances the character or appearance of the Sheaf Conservation Area.

Reasons

6. One element of the development includes the replacement of what was a brick boundary wall in a poor condition by a new wall with a wider vehicular access serving the parking area associated with Broomheath Cottage. In addition, a cobblestone verge has been constructed between the replacement wall and the carriageway of Platts Lane. A Yew hedge planted to the rear of the wall partially screens the reconfigured parking area with its bound resin surface which is of a lighter colour than asphalt.
7. The appeal property is located within the Sheaf Conservation Area where there is a statutory duty to pay special attention to preserving or enhancing the character or appearance of the area. This duty is echoed in Policy ENV 5 of the Cheshire West and Cheshire Council Local Plan (Part One) (LP Pt 1) and Policy DM 46 of the Cheshire West and Cheshire Council Local Plan (Part Two) (LP Pt 2) which also references the need to retain historic boundary and surface treatments.
8. Included in the appellants' evidence is the *Sheaf Conservation Area Appraisal* (January 2008) which identifies that the Conservation Area was originally designated in 1974 and altered in 1996. The *Conservation Area Appraisal* identifies that there is a clustering of primarily residential properties around the crossroads of Broomheath Lane and Platts Lane. The character of the area is described as being rural with half of its built environment associated with the former farmstead of Sheafs Farm which is now in residential use.
9. Within the *Appraisal* there is a generic reference to boundary treatments, hedgerows and trees having a significant impact upon the setting of properties, the coherence of a group and the overall character of a Conservation Area. The use of traditional and appropriate treatments is expected to preserve or enhance the appearance of the Conservation Area.
10. For the Sheaf Conservation Area, the *Appraisal* recognises that old walls, varying in height from 600mm to 2000mm, usually bordering residential frontages and constructed of sandstone or brick, add significantly to the

townscape of the area. Hedgerows of medium height are present along Broomheath Lane and Platts Lane, specifically those bordering fields and are distinctive landmarks to the pastoral appearance of the Conservation Area. The presence of cobblestones is recognised in the *Appraisal* as a traditional and historic surfacing material.

11. Broomheath Cottage is identified in the *Appraisal* as a neutral element within the Conservation Area which the appellants' claim equally applied to the original boundary wall. From the available evidence, the original wall was erected in circa 1991. As such, the wall was not an historic boundary treatment on a par with others within the Conservation Area, particularly those which existed when this heritage asset was originally designated, such as the stone wall with coping at Sheafs Farm. In any event, the original wall is not identified in the *Appraisal* as an historic boundary contributing in its own right to the character and appearance of the Conservation Area or its heritage significance.
12. Photographs of the now demolished wall have been provided and a comparison can be made with the boundary as currently erected. Although the vehicular entrance is bigger, the design, height and appearance of the wall is similar to the original wall and makes a similar contribution to the streetscene, especially with the type of bricks which have been used. There is a difference with the use of stone coping but examples of this design approach exist within the Conservation Area, including at Sheafs Farm.
13. The cobblestone verge echoes similar verges within the Conservation Area and replaces what appeared to be a small landscape strip rather than a grass verge along which pedestrians could have walked. As identified by the appellants, the original non-native hedge could have been removed without the need for consent. The planting of Yew to the rear of the wall echoes the appearance of the original hedge.
14. When compared to what previously existed, the design, siting and traditional materials of the brick boundary wall, together with the cobblestone verge and planting of a longer hedge comprising a native species, preserves the character and appearance of the streetscene along Platts Lane together with the townscape and wider rural character of the Conservation Area.
15. The increased width of the vehicular access, in itself, does not detract from the character and appearance of the streetscene and there are accesses of similar widths within the Conservation Area. As identified by the Council, the wider gap does, together with the reconfigured parking area, increase the visibility of parked cars within the curtilage of the property when compared to the previous situation. However, from the available photographs it is evident that parked cars within the property's curtilage would have been visible. Further, there are cars parked along the opposite side of Platts Lane and within off-street areas visible from the roads, including at Sheafs Farm. The size of the gap within the wall and the visibility of parked cars does not significantly harm the character and appearance of either the streetscene or the wider Conservation Area.
16. However, the *Appraisal* does refer to the use of cobblestones and other traditional materials as being of benefit to the character and appearance of the Conservation Area. The use of traditional materials applies to parking areas and drives. Although replacing asphalt and broken slabs, because of its colour the

resin surface of the parking area is conspicuous from Platts Lane through the gap in the wall. The colour of this contemporary surfacing material represents an incongruous form of development.

17. Elsewhere within the Conservation Area, the parking areas and drives of other properties use more traditional surfacing materials, including cobblestone, brick paviour and loose stones. Overall, the contemporary hardstanding element of the development, in particular its colour, fails to preserve the appearance of the townscape and the rural character of the Conservation Area albeit it causes less than substantial harm to the significance of this designated heritage asset.
18. Where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, then the Framework identifies that this harm should be weighed against the public benefits of the proposal. For the parking area, the appellants have identified that the porous surface allows for a decrease of flooding when compared to the previous surfacing material and this has the support of the occupier of 2 Sheaf Cottages. However, the reduction in the risk of flooding does not outweigh the harm to the heritage significance of the Conservation Area. Other benefits which have been identified relate primarily to the replacement wall and highway safety improvements associated with the enlarge vehicular access rather than the parking area.
19. Consideration has been given as to whether a split decision could be issued because there are 2 distinct elements of the appeal scheme. For such a decision to be issued the relevant parts of the appeal scheme must clearly be physically and functionally independent. In this case, the demolition and re-construction of the boundary wall and widening of the access, together with the cobblestone verge, is clearly severable, and both physically and functionally independent, from the hardstanding. The increased width of the driveway and the ability alter the type of hedgerow are de minimis matters in this assessment of severability. There exists, therefore, the potential to issue a split decision in this case.
20. Accordingly, it is concluded that the hardstanding fails to preserve the character and appearance of the Sheaf Conservation Area and, as such, it conflicts with LP Pt 1 Policy ENV 5 and LP Pt 2 Policy DM 46. Conversely, it is concluded that the demolition and re-construction of a boundary wall and widening of the access does preserve the character and appearance of the Sheaf Conservation Area and, as such, it does not conflict with LP Pt 1 Policy ENV 5 and LP Pt 2 Policy DM 46.

Conditions

21. The Council has suggested a single condition in the event this appeal succeeds which has been assessed against the tests in the Framework and the Planning Practice Guidance. For reasons of clarity, a condition is necessary to identify on approved drawing the works associated with the demolition and re-construction of the boundary wall and the widening of the vehicular access.

Conclusion

22. For the reasons given, it is concluded that the appeal is dismissed in relation to the hardstanding but is allowed in respect of the demolition and re-construction of a boundary wall and the widening of the access.

D J Barnes

INSPECTOR