



Appeal Decision

Site visit made on 22 July 2025

by **M Cryan BA(Hons) DipTP MSc MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 21 October 2025

Appeal Ref: APP/R0660/W/25/3363785

40 Cross Lane, Congleton CW12 3JX

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
- The appeal is made by Mr Will Nixon of Investco Lands Ltd against the decision of Cheshire East Council.
- The application reference is 24/4127/FUL.
- The development proposed is the demolition of The Coach House and the construction of a new dwelling.

Decision

1. The appeal is allowed and planning permission is granted for the demolition of The Coach House and the construction of a new dwelling at 40 Cross Lane, Congleton, CW12 3JX in accordance with the terms of the application, reference 24/4127/FUL, subject to the conditions in the attached schedule.

Procedural Matter

2. The appellant submitted a revised site layout plan with their appeal statement. This showed the position of the proposed new dwelling moved slightly further to the west than had been initially proposed, putting it between 1.6m and 1.9m further away from the existing dwelling at No 40 Cross Lane (also known as “The Crofters”). This was intended to address the second reason for refusal, relating to the impact of the proposed development on neighbours’ living conditions.
3. The Procedural Guide¹ advises that “if an applicant thinks that amending their application will overcome the LPA’s reasons for refusal, they should normally make a new planning application”, and that “it is important that what is considered by the Inspector at appeal is essentially the same scheme that was considered by the LPA and by interested parties at the application stage”.
4. In deciding whether to accept the amended plans I have had regard to the judgment of the High Court in Holborn Studios² (which refined the long-standing and well-understood “Wheatcroft Principle”³). In this case, the amendment proposed does not alter the fundamental nature of the scheme and, while it is not the determinative factor, the Council did not object to the amended plan during the appeal. No objections to the scheme were put forward by the residents of the neighbouring properties during the original planning application consultation. Any interested parties have also had the opportunity to comment on the revised plan during the course of the appeal, though none did. I am therefore satisfied that

¹ Procedural Guide: Planning appeals – England, online at <https://www.gov.uk/government/publications/planning-appeals-procedural-guide/procedural-guide-planning-appeals-england>

² Holborn Studios Ltd v The Council of the London Borough of Hackney [2017] EWHC 2823 (Admin)

³ Bernard Wheatcroft Ltd v SSE [JPL 1982 P37]

there would be no procedural unfairness arising from my determining the appeal based on the revised scheme, and I have proceeded on that basis.

Main Issues

5. The main issues are the effect of the proposed development on:
- The character and appearance of the area, including on a non-designated heritage asset (“NDHA”), with particular regard to the loss of The Coach House; and
 - Living conditions for occupiers of neighbouring properties, with particular regard to overlooking and privacy in respect of No 38A Cross Lane, and loss of daylight or sunlight in respect of The Crofters.

Reasons

Character and appearance, NDHA

6. The Coach House sits at the rear of The Crofters, a large detached Victorian villa on a substantial plot in a predominantly residential part of Congleton. Planning permission was granted in January 2023 for “amendments to existing house and construction of new garage, conversion and extension of outbuilding to form dwelling along with construction of new garage, and construction of 3 new build detached properties within the grounds [of The Crofters] with associated detached garages”⁴; the Coach House is the outbuilding referred to in that description. That development was underway at the time of my site visit. The appellant now seeks permission for the demolition of the Coach House, and the construction of a new dwelling in its place.
7. The Crofters is included on the Council’s 2010 *Local List of Historic Buildings*; it is described therein as a:

“Late Victorian villa in Flemish bond red brick with slate roof surmounted by decorative terracotta ridge tiles and finials. Sandstone sills and lintels with brick hood moulds over openings. Tower has a pyramidal roof with flared eaves. Original timber sash windows and bargeboards remain. A significant range of outbuildings contemporary to the house exists in good condition.”

While the local list entry refers to outbuildings it does not include any description or detail of the Coach House. The Council’s publicly available mapping also does not show the Coach House within the extent of local list entry for The Crofters.

8. The National Planning Policy Framework (“the Framework”) defines a heritage asset as “a building, monument, site, place, area or landscape identified as having a degree of significance meriting consideration in planning decisions, because of its heritage interest”. It goes on to note that this “includes designated heritage assets and assets identified by the local planning authority (including local listing)”. Nevertheless, while the Planning Practice Guidance (“the PPG”) advises that “it is important that all non-designated heritage assets are clearly identified as such”, and that “it can be helpful if local planning authorities keep a local list of non-designated heritage assets”, it notes that “local planning authorities may also

⁴ LPA Ref: 20/4784C

identify non-designated heritage assets as part of the decision-making process on planning applications”⁵.

9. The Coach House is a single-storey (plus loft) building of solid masonry construction, with a brick paving ground floor and a suspended timber first floor. It has a traditionally-formed roof, though since a tree fell onto the building at some point around early 2024 the roof slates have been removed. It appears that the Coach House may be of slightly later construction than The Crofters, although not, in the grand scheme of things, by very much. Neither building appears on an Ordnance Survey map of 1898, both are there by the time of the 1909 map; both have also subsequently been altered or extended. The materials and stylings of the two buildings are similar, though the Coach House is of course much simpler, reflecting its lower status as an outbuilding.
10. The Council did not raise any concerns about the appearance of the proposed replacement dwelling. It would be of traditional form, brick built with stone detailing, and a pitched slate roof, and in keeping both with The Crofters and the three new dwellings already being built around it. However, it considers that the Coach House should be retained as it is an important part of the significance of The Crofters and its status as a large villa, and integral to its history.
11. I appreciate that the Coach House is of some local interest both architecturally and socially because of its connection to and with The Crofters. In the context of the proposed development, it is appropriate to consider it as part of that NDHA. However, while The Crofters is a suburban villa of reasonably substantial scale there is little before me to indicate that the outbuildings made a particular contribution to its development or function; it seems to be overstating the case to describe the Coach House as “integral” to the history of the main dwelling. The Coach House is tucked behind The Crofters in such a way that only limited glimpses of it are possible from the street – it is not a “landmark” or otherwise visually significant in the locality; it does not appear to me to be of such significance or interest that it would warrant being treated as an NDHA in its own right.
12. The Coach House is in a poor condition – I saw on my visit that some of the rafters are broken and purlins missing, presumably as a result of the 2024 tree fall. A structural report submitted during this appeal highlighted several other problems, including the poor condition of much of the brickwork, cracking and bowing of walls, deflection of the timbers supporting the first floor, the need to excavate to create a new dry and insulated ground floor, and the possible need for underpinning or mini-piling to ensure the building’s long-term stability. While some issues may only have arisen since the tree fall and the subsequent removal of the roof slates without any weather protection being put back in place, it is also evident that the remediation of other longer-term problems would be a significant and uneconomic proposition.
13. The Framework says (at Paragraph 216) 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 heritage asset”.

⁵ Paragraph: 040 Reference ID: 18a-040-20190723

The appeal proposal would result in the total loss of the Coach House, and therefore the loss of part of the NDHA, though as I have described above the building makes a limited contribution to the character of the area, and indeed to the legibility of The Crofters. Weighed against this loss, the development would bring forward an additional dwelling, which would be sympathetic to the character and appearance of its surroundings.

14. I conclude that the character and appearance of the area, and the significance of The Crofters as an NDHA, would be preserved. The development would not conflict with Policies SE1, SE7 and SD2 of the 2017 Cheshire East Local Plan Strategy ("the CELPS"), or with Policies GEN1 and HER7 of the 2022 Site Allocations and Development Policies Document ("the SADPD"). Together, and among other things, these policies seek to ensure that development makes a positive contribution to its surroundings and to local character and identity, and that the impact of development on NDHAs is properly considered and a balanced judgement taken.

Living conditions

No 38A

15. Bedroom 3 would be on the first floor of the proposed dwelling, with its window on the rear elevation facing towards the side of the neighbouring bungalow No 38A Cross Lane. It would be around 18m from the bedroom window to the nearest window on the side of No 38A, which I understand serves a dining kitchen.
16. Policy HOU13 of the SADPD applies standards for spaces between dwellings set out in Table 8.2 of that document; the supporting text indicates that a kitchen diner will be treated as a habitable room. Where habitable rooms face one another a minimum of 18m is required at the front of buildings and 21m at the back. No 38A is at a slightly lower ground level than the appeal site, though there is nothing before me to suggest that the difference exceeds the 2m for which Table 8.2 says that the separation distance should be increased.
17. Policy HOU13 does not specify a separation distance for rear-to-side relationships as would be the case here, presumably because where habitable rooms are concerned it is a reasonably infrequent consideration. In the absence of a specified distance, the 18m-21m range sought for other habitable room relationships seems like a reasonable rule of thumb. I also note that HOU13 says that the separation distance standard should be met "unless the design and layout of the scheme and its relationship to the site and its characteristics provides an adequate degree of light and privacy between buildings".
18. In this case, the separation distance would be at the lower end of what might be considered an acceptable range. However, the window to Bedroom 3 would be set behind an area of flat roof with a parapet, and there is a reasonably substantial hedge between the appeal site and No 38A; both parapet and hedge would provide some screening and limit overlooking. Furthermore, although the affected room within No 38A is a dining kitchen, the layout information provided to me indicates that that end of the room has most of the kitchen facilities, and the window is above the sink, while the dining area is towards the other end of the room; there is also a second window on a different elevation. Taking all of this together, I am satisfied that there would be no harmful overlooking or loss of privacy in respect of No 38A.

The Crofters

19. Under the amended scheme which I have accepted here, the proposed dwelling would be around 5m – or slightly more – from the nearest point of The Crofters, a conservatory on its west-facing rear elevation. Shadow modelling submitted during the appeal indicates that the proposed dwelling would cause some degree of overshadowing of the conservatory during the late evening. However, the extent of this would be comparable to that which would arise from the scheme approved in 2023, and I am satisfied that it would not lead to a significantly harmful loss of daylight or sunlight for the occupiers of The Crofters.

Findings on this issue

20. I conclude that the proposed development would not cause significant harm to living conditions for occupiers of the neighbouring properties. It would not therefore conflict with Policy SE1 of the CELPS, or with Policies HOU12 and HOU13 of the SADPD; together, and among other things, these policies seek to ensure that development demonstrates high standards in respect of liveability, and does not have unacceptable adverse impacts in respect of privacy, sunlight or daylight.

Conditions

21. I have considered the conditions suggested by the Council having regard to the tests in the Framework and the advice in the PPG. Where necessary I have made changes to the wording or ordering of conditions in the interests of clarity and effectiveness.
22. As well as the standard time limit for commencement (1), a condition defining the approved plans (2) is necessary in the interests of certainty, and to define the permission. As I have indicated above, this specifies the revised drawing submitted during the appeal; because of this the condition also excludes the proposed siting of the new dwelling as shown in the earlier site plan with boundary treatments, which was not amended for the appeal. A condition relating to materials (3) is necessary to protect the character and appearance of the area.
23. Conditions relating to the protection of nesting birds (4) and biodiversity (5) are necessary to comply with Policy SE3 of the CELPS and, for condition 5, Policy ENV1 of the SADPD and the provisions of the Framework. While I note the appellant's comments in respect of condition 4, and while trees have already been removed from the site as part of the wider development, I consider that condition remains necessary in view of the possibility that birds have nested within the roofless Coach House.
24. Conditions relating to the importation of soil (6) and the discovery of contamination (7) are necessary to protect the health and living conditions of existing neighbours and future occupiers of the scheme. Conditions relating to landscaping (8 and 9) are necessary to protect the character and appearance of the area, and to comply with Policies SE1, SE4 and SE5 of the CELPS and Policy ENV5 of the SADPD.
25. A condition requiring the submission of a drainage strategy (10) is necessary to ensure that adequate drainage is provided and that flood risk is managed appropriately, and to comply with Policy SE13 of the CELPS, Policy ENV16 of the SADPD, and the relevant provisions of the Framework.

Conclusion

26. For the reasons set out above, I conclude that the appeal should be allowed and planning permission granted.

M Cryan

Inspector

Schedule of Conditions

- 1) The development hereby permitted shall begin not later than three years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans, except in respect of the siting of the dwelling hereby approved shown on plan 1627 – 101 *Site Plan detailing Part Boundary Treatments*:
 - 1627 – L01C *Location Plan*
 - 1627 – 101 *Site Plan detailing Part Boundary Treatments*
 - 1627 – 102 *Boundary Treatments*
 - 1627 – 211 *Alternative Scheme Site Plan*
 - 1627 - 110 *Proposed Floor Plans*
 - 1627 – 111 *Proposed Elevations*
 - 1627 – 210 *Existing Plans and Elevations*
 - 1627/DAP/240206 *Design, Access and Planning Statement*
 - 1627/HIA/240207 *Heritage Impact Assessment*
- 3) No development involving the use of any facing or roofing materials shall take place until details of all such materials have been submitted to and approved in writing by the Local Planning Authority. Development shall be carried out in accordance with the approved details.
- 4) No removal of any vegetation or the demolition, extension or conversion of buildings shall take place between 1st March and 31st August in any year, unless a detailed survey has been carried out to check for nesting birds. Where nests are found in any building, hedgerow, tree or scrub or other habitat to be removed (or converted or demolished in the case of buildings), a 4m exclusion zone shall be left around the nest until breeding is complete. Completion of nesting shall be confirmed by a suitably qualified person and a report submitted to and approved in writing by the Local Planning Authority before any further works within the exclusion zone take place.
- 5) Prior to first occupation of the dwelling a strategy for the incorporation of features to enhance the biodiversity value of the proposed development shall be submitted to and approved in writing by the Local Planning Authority. The approved proposals shall be permanently installed in accordance with approved details prior to the first occupation of the development.
- 6) Any soil or soil forming materials to be brought to site for use in soft landscaping shall be tested for contamination and suitability for use in line with the current version of 'Developing Land within Cheshire East Council – A Guide to Submitting Planning Applications, Land Contamination' (in the absence of any other agreement for the development).

Prior to occupation, evidence and verification information shall be submitted to, and approved in writing by, the Local Planning Authority (LPA).
- 7) If, during the course of development, contamination not previously identified is found to be present, no further works shall be undertaken in the affected area and confirmation of this shall be reported to the Local Planning Authority (LPA). Prior to any further works being carried out in the identified area, a further assessment shall be made and appropriate remediation implemented in accordance with a scheme agreed in writing by the LPA.

- 8) Prior to the first occupation of the dwelling, a scheme for the landscaping of the site shall be submitted to and approved in writing by the Local Planning Authority. The landscaping scheme shall include details of hard landscaping, planting plans, written specifications (including cultivation and other operations associated with tree, shrub, hedge or grass establishment), schedules of plants noting species, plant sizes, the proposed numbers and densities and an implementation programme.
- 9) The approved landscaping plan shall be completed in accordance with the following:-
 - a) All hard and soft landscaping works shall be completed in full accordance with the approved scheme, within the first planting season following completion of the development hereby approved, or in accordance with a programme agreed with the Local Planning Authority.
 - b) All trees, shrubs and hedge plants supplied shall comply with the requirements of British Standard 3936, Specification for Nursery Stock. All pre-planting site preparation, planting and post-planting maintenance works shall be carried out in accordance with the requirements of British Standard 4428(1989) Code of Practice for General Landscape Operations (excluding hard surfaces).
 - c) All new tree plantings shall be positioned in accordance with the requirements of Table A.1 of BS5837:2012 Trees in Relation to Design, Demolition and Construction: Recommendations.
 - d) Any trees, shrubs or hedges planted in accordance with this condition which are removed, die, become severely damaged or become seriously diseased within five years of planting shall be replaced within the next planting season by trees, shrubs or hedging plants of similar size and species to those originally required to be planted.
- 10) No development shall take place until a detailed drainage strategy/design plan for the site has been submitted to and approved in writing by the Local Planning Authority, in accordance with Gov.UK - 'Standing Advice for Local Planning Authorities' (2022).

The submitted Drainage Strategy must include:

- a) Surface water run-off rates, including greenfield qBar and post-development runoff estimates, ensuring greenfield rate run-off is matched, unless proven unfeasible, or 50% betterment for brownfield sites, with a restricted discharge rate not exceeding 5l/s per hectare and not lower than 2l/s per hectare
- b) Details of hydraulic design up to 1in100+CC% Storm Event in accordance with Gov.uk Climate Change Allowances
- c) Details of any boundary drainage to ensure any flooding remains within the site. If calculations show flooding on site, that developments/properties will be safe
- d) Designed in accordance with the drainage hierarchy (Non-Statutory SuDS Technical Standards Guidance (2016) Paragraph 3.7)
- e) Provision of pipe diameters, slope angles, cover levels and invert levels
- f) Demonstrates that foul and surface water drain via separate systems

- g) Provision of hydraulic modelling for all storm durations, detailing the critical storm duration, from 15 minutes to 10 day, with the 1in100+CC% Storm Event also utilised
- h) Provision of full management and maintenance schedule for the drainage strategy to cover the lifetime of the development, including contact details of the responsible party and any inspection and test plans.

The approved drainage details shall be implemented prior to the first occupation of the development.