



Penderfyniadau ar yr Apêl

Ymweliad â safle a wnaed ar 27/09/2022

gan [REDACTED] BA(Hons), BTP, MSc,
MRTPI

**Arolygydd a benodir gan Weinidogion
Cymru**

Dyddiad:13-02-2023

Appeal Decisions

Site visit made on 27/09/2022

by [REDACTED] BA(Hons), BTP, MSc,
MRTPI

**an Inspector appointed by the Welsh
Ministers**

Date:13-02-2023

Appeal A: CAS-01757-B6K9P8

Appeal B: CAS-01953-C8G1L0

Site address [REDACTED]

The Welsh Ministers have transferred the authority to decide these appeals to me as the appointed Inspector.

- **Appeal A** is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
- **Appeal B** is made under sections 20 and 74 of the Planning (Listed Buildings and Conservation Areas) Act 1990 against a refusal to grant conservation area consent.
- The appeals are made by [REDACTED] against the decisions of Powys County Council.
- The development and works proposed are the demolition of garage & outbuildings to create new/joint access, removal of chimneys together with alterations and extension to existing house with adjoining parking and amenity space.

Decisions

1. **Appeal A** is allowed and planning permission is granted for the demolition of garage & outbuildings to create new/joint access, removal of chimneys together with alterations and extension to existing house with adjoining parking and amenity space at 58 Mill Road, Knighton LD7 1RT in accordance with the terms of the application, Ref 21/1374/HH, dated 25 July 2021 subject to the schedule of conditions attached at Annex A.
2. **Appeal B** is allowed and Conservation Area Consent is granted for the demolition of garage & outbuildings to create new/joint access at 58 Mill Road, Knighton LD7 1RT in accordance with the terms of the application, Ref 21/1375/CAC, dated 25 July 2021 subject to the schedule of conditions attached at Annex B.

Procedural and Preliminary Matters

3. A hybrid application form was used for the works and development proposed under the Planning (Listed Buildings and Conservation Areas) Act 1990 and the Town and Country Planning Act 1990. As set out above, two appeals are before me which will be considered

on their individual merits. Nevertheless, to avoid duplication I have dealt with the two together, except where otherwise indicated.

4. The description of the proposal given on the hybrid application form was the '*Demolition of garage & outbuildings to create new/joint access and alterations and extension to existing house with adjoining parking and amenity space*'. However, the Council concluded that the demolition works described on the application form did not, of themselves, require Conservation Area Consent (CAC) given that the cubic content of the garage amounts to some 75 cubic metres whereas the timber shed is in the order of 70 cubic metres; that is, CAC is not needed for the demolition of a building whose total volume is less than 115 cubic metres. Be that as it may, I have determined the CAC appeal on the basis on which the application was submitted.
5. Notwithstanding the above, the Council advised the appellants that other elements shown on the submitted drawings, namely the removal of the chimneys and the demolition of a lean-to extension required CAC, and the Council considered the application on this basis. I will deal with each of these matters in turn:
 - (i) In respect of the demolition of the existing lean-to extension, the Council considered that as the cubic content of the house and the extension exceeds 115 cubic metres, CAC would be required. However, this is not the sole test for whether CAC is required for demolition. Rather, case law has established that the works would need to amount to the demolition of all, or at least a substantial part of, the building. I do not find that the part demolition of the lean-to, even taking into account the additional demolition works as a result of the removal of the chimneys, could be considered as such.
 - (ii) Turning to the removal of the chimneys. Although I have not been provided with a copy of the Article 4 Direction cited by the Council, I have no compelling reason to dispute the Council's position in respect of this matter given the provisions of Class C of Part 1 to Schedule 2 of the Town & Country Planning (General Permitted Development) (Amendment) (Wales) Order 2013. However, such provisions do not result in a need for CAC, but simply mean that planning permission is required.
6. In view of the above, it is clear that the removal of the chimneys was intended by the appellants since these works are shown on the submitted drawings, referred to in their appeal submissions and form the basis on which the Council made its assessment. It is therefore on this basis that I determine the S78 appeal and, accordingly, I have revised the description of the proposal to include reference to the removal of the chimneys. No party would be prejudiced by my doing so.
7. It is only the removal of the chimneys and the resultant harmful effect on the character and appearance of the CA with which the Council takes issue. That is, the Council does not find the other demolition works or the proposed alterations and extension to the dwelling to be objectionable. Although its delegated report in respect of the planning application expresses concern with the lack of detail in relation to external materials and finishes (including the external elevations, roof, doors and windows), in coming to its decision, it concluded that this matter could be controlled by condition in the event of permission being granted. I agree.

Main Issue

8. Against this background, the main issue is whether the proposal preserves or enhances the character or appearance of the Knighton Conservation Area (CA), with particular regard to the removal of the chimneys.

Reasons

9. The appeal property lies beyond the centre of the small historic market town of Knighton, on the south-westernmost extremity of the Knighton CA. Apart from a Plan showing the boundaries of the CA, the Council does not identify its special characteristics or qualities or the harmful effect that the proposal would have on such characteristics or qualities.
10. Rather, the Council relies, in part, on the advice in its adopted 'Conservation Areas' Supplementary Planning Guidance (SPG), which states that the prominence of chimneys on the roofs of buildings means that they are considered to be important to the character of historic buildings and overall appearance of the area. It provides extracts from the SPG which, inter alia, advise that '*Original chimney stacks and decorative surroundings should be retained..... Consideration should be given to repairing or, in cases where repair is not possible, the rebuilding of existing stacks in matching materials will be supported. Where new development is proposed, chimneys should be incorporated within the design, where this is an important feature of the street scene, and should be designed to respect the character and appearance of other chimneys in the area*' (my emphasis).
11. The appellants suggest that, in the absence of a CA appraisal, the CA can be divided into distinct character areas consisting of (i) The Castle area, (ii) The Church area, (iii) Broad Street and Bridge Street and (iv) Wylcwm Brook area, with the appeal site being located in the latter character area.
12. Based on my observations at my site visit, I concur that the character of the CA varies with the part of the CA in which the appeal site lies characterised predominantly by sporadic dwellings in a linear form on the periphery of the market town. There is little uniformity in the design and form of the dwellings, or the manner in which they address the road frontage. There is much variety in external finishes, including roofs, window and door detailing and decoration. Where chimneys are present, the shape, height and position of the chimney stacks differ. Consequently, in this part of the CA, such features make little contribution to its special character and appearance.
13. I note that the appellants' Heritage Statement does not provide a justification for the removal of the chimneys, albeit paragraph 6.12 of Technical Advice Note 24 advises that such a statement is required in relation to CAC (rather than applications for planning permission). Be that as it may, the appellants' statement of case together with a copy of earlier correspondence between the appellants and the Council seek to justify the need for the demolition of the chimneys. In summary, it is alleged that the chimney stacks are not original, but 20th century additions constructed of purple brick. The bricks are fixed with modern cement to a lime mortar base and have become separated and the top courses have sprung to the extent that demolition is necessary. The chimney to the south end is an afterthought - the wall, being too thin to facilitate a flue, has a poorly built external chimney stack which is coming away from the main building and requires taking down. The appellants' argument here is that this work could be carried out without damaging the wall, clearly indicating the poor or non-existent key work.
14. The Council acknowledges that the existing chimneys appear to be non-original but asserts that their presence suggests the building would have originally benefitted from chimneys, and thus their retention would respect the traditional and historic nature and character of the existing building. However, there is no substantive evidence before me which convinces me that is indeed the case. In this context, I do not find that the existing, poorly constructed chimneys that were added to this property at a later date, make any

significant contribution to the character and attractiveness of the host building. Neither do I consider that their removal would compromise a defining feature of this part of the CA.

15. It is for these reasons that I cannot conclude that the demolition of the chimneys would fail to preserve the character and appearance of the CA. Hence, I do not find conflict with Policies SP7 and DM13 of the adopted Powys Local Development Plan (LDP) or the SPG, or with national planning policy outlined in Planning Policy Wales and Technical Advice Note 24: Managing Conservation Areas in Wales.

Conditions

16. The Council has provided me with lists of conditions in the event of planning permission and CAC being granted. I have had regard to the conditions in the context of the tests outlined in Welsh Government Circular 016/2014 '*The Use of Conditions for Development Management*' and have adjusted the wording of some conditions in the interest of clarity and precision.
17. In terms of drainage, SuDS Advisory Board consent would be required before undertaking work which provides an adequate safeguard to ensure that surface water is dealt with appropriately. It is therefore not necessary to impose a condition to control surface water drainage.
18. The Council's suggested condition relating to the position of any new or relocated hedge is not necessary given that condition 9 would secure adequate visibility splays. Neither am I convinced that a condition specifying the surfacing material for the access is reasonable or necessary in the interests of highway safety. As I have not been provided with a compelling reason as to why a condition requiring the stopping up of the existing vehicular access to the U1744 highway is relevant to the development before me, I have not imposed such a condition.

Conclusions

19. In conclusion, I am satisfied that the proposal would not offend the duty under s72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 to pay special attention to the desirability of preserving or enhancing the character or appearance of the CA, or conflict with local or national planning policies which seek the same. Accordingly, the appeals are allowed.
20. In reaching my decisions, I have taken into account the requirements of sections 3 and 5 of the Well-Being of Future Generations (Wales) Act 2015. I consider that these decisions are in accordance with the Act's sustainable development principle through its contribution towards the Welsh Ministers' well-being objective of making our cities, towns and villages even better places in which to live and work.


Inspector

ANNEX A: Schedule of Conditions subject to which planning permission is granted.

1. The development shall begin not later than five years from the date of this decision.
Reason: To comply with the requirements of Section 91 of the Town and Country Planning Act 1990.
2. The development shall be carried out strictly in accordance with the following approved plans:
 - Drawing: 2, Proposed Floor Plans.
 - Drawing: 3, Proposed Elevations.
 - Drawing: 4, Proposed Elevations.
 - Drawing: 5, Proposed Site Layout
 - Drawing: 6, Proposed Alterations.
 - Outbuildings to be Demolished.
 - Proposed Access.Reason: For the avoidance of doubt as to the proposed development and to accord with Circular 016/2014.
3. No development shall commence until further details and/or samples of the materials to be used in the construction of all external surfaces of the development have been submitted to and approved in writing by the Local Planning Authority. The development hereby permitted shall be carried out in accordance with the approved details.
Reason: In the interests of preserving the character and appearance of the Knighton Conservation Area and to ensure a high quality external finish, in accordance with LDP Policies SP7 and DM13 and the adopted SPG.
4. The development shall be undertaken in accordance with the mitigation and enhancement measures identified within Section 4.2 of the Bat Emergence and Re-entry Surveys (Arbtech, dated 23/07/2021) and the recommendations within Section 5 of the Preliminary Ecological Appraisal (Elite Ecology, dated September 2020).
Reason: To comply with LDP Policies DM2, DM4 and DM13 and Section 6 of the Environment (Wales) Act 2016.
5. No external lighting shall be installed on the development hereby permitted unless a detailed external lighting design scheme has first been submitted to and approved in writing by the Local Planning Authority. The external lighting scheme shall identify measures to avoid impacts on nocturnal wildlife in accordance with the recommendations outlined within the BCT and ILP Guidance Note 8 Bats and Artificial Lighting (12th September 2018). The development shall be carried out in accordance with the approved detail.
Reason: To comply with LDP Policies DM2, DM4 and DM13 and Section 6 of the Environment (Wales) Act 2016.
6. No development shall take place until a programme of building recording and analysis has been secured and implemented, in accordance with a written scheme of investigation which has been submitted and approved in writing by the local planning authority. The programme of building analysis and recording must meet the standards laid down by the Chartered Institute for Archaeologists in their Standard and Guidance for the archaeological investigation and recording of standing buildings or structures. A

copy of the resulting report shall be submitted to the Local Planning Authority and the Development Control Archaeologist, Clwyd-Powys Archaeological Trust.

Reason: To allow an adequate analytical record of the building to be made to ensure that its origins, use and development are understood and the main features, character and state of preservation are recorded.

7. The first-floor window in the north-western elevation, as shown on Drawing: 4, shall be installed as an obscurely glazed window and fixed pane at the time of installation, and retained as such thereafter.

Reason: To ensure that the privacy and amenity of neighbouring residential occupiers is safeguarded, in compliance with LDP Policy DM13 (Criterion 11).

8. No development shall commence until provision is made within the curtilage of the site for the parking of construction vehicles together with a turning area which shall enable vehicles to enter and leave the site in a forward gear, and they shall be retained for the duration of the construction phase.

Reason: In the interests of highway safety and in accordance with LDP Policies T1 and DM13 (Criterion 10).

9. The 2.4m x 2.4m visibility splays shown on the Proposed Access drawing shall be maintained free of any obstruction exceeding 0.6m in height for as long as the development exists.

Reason: In the interests of highway safety and in accordance with LDP Policies T1 and DM13 (Criterion 10).

10. No other development shall commence until the access has been constructed with a width of not less than 5 metres for a minimum distance of 5.5 metres measured from the edge of the adjoining carriageway, and shall be maintained as such thereafter.

Reason: In the interests of highway safety and in accordance with LDP Policies T1 and DM13 (Criterion 10).

11. The gradient of the access shall be constructed so as not to exceed 1 in 20 for the first 5.5 metres measured from edge of the adjoining carriageway along the centre line of the access and shall be retained as such thereafter.

Reason: In the interests of highway safety and in accordance with LDP Policies T1 and DM13 (Criterion 10).

12. Prior to the first use of the development hereby approved, provision shall be made within the site for the parking & turning of vehicles as detailed on Drawing 5: Proposed Site Layout. The parking & turning areas shall be retained for their designated use for as long as the development remains in existence.

Reason: In the interests of highway safety and in accordance with LDP Policies T1 and DM13 (Criterion 10).

ANNEX B: Schedule of Conditions subject to which Conservation Area Consent is granted.

1. The works hereby permitted shall begin no later than five years from the date of this decision.

Reason: To comply with the requirements of Section 18 of the Planning (Listed Buildings and Conservation Areas) Act 1990.

2. The development shall be carried out strictly in accordance with the following approved plans:

- Drawing: 2, Proposed Floor Plans.
- Drawing: 3, Proposed Elevations.
- Drawing: 4, Proposed Elevations.
- Drawing: 5, Proposed Site Layout.
- Drawing: 6, Proposed Alterations.
- Outbuildings to be Demolished.
- Proposed Access.

Reason: For the avoidance of doubt as to the proposed development and to accord with Circular 016/2014.