

DELEGATED DECISION REPORT

SMD/2021/0233
Valid 30/03/2021

OLD NURSES COTTAGE
HAZLES CROSS ROAD
KINGSLEY

RETROSPECTIVE
PERMISSION FOR
REBUILDING WORKS,
REPLACEMENT GLAZING
AND INFILLING OF INTERNAL
DOORWAY BETWEEN
FARMHOUSE AND SEMI
DETACHED COTTAGE

(FULL - HOUSEHOLDER)

MAIN ISSUES

- design
- neighbour amenity
- heritage

DESCRIPTION OF SITE



Fig.1

Old Nurses Cottage is a set down adjunct to New Hall Farm house with which it was formerly connected by a door at the ground floor level and occupied as one. The now separate cottage is at the south west end of the overall layout of the two connected buildings and seen to the right (with lower ridge height) in the LPA's photo at fig. 1 above. It is the part closer to the road. Access is via a drive to the west side climbing up from Hazels Cross Road. The property amounts to a two storey, one-bedroom dwelling.

The site arrangement is shown in the submitted site plan – extract at fig 2 below.

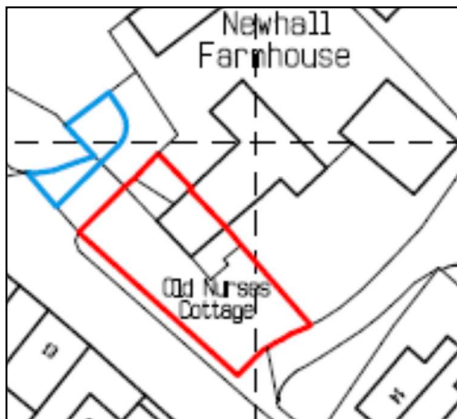


Fig.2

It is understood that a pull-in parking space is used by the occupants in a part of the other land in the applicant's ownership shown in blue outline in fig.2 and not part of this application.

Applications 05/01113/FUL and 05/01114/LBC granted consent to the change of use of the existing farm house and semi-detached cottage (with internal doorway) to form two separate dwelling houses. A wall was infilled in the position of a connecting door at ground floor and it is understood a door was nonetheless retained in situ as a non-opening fixture to reflect the historic arrangement.

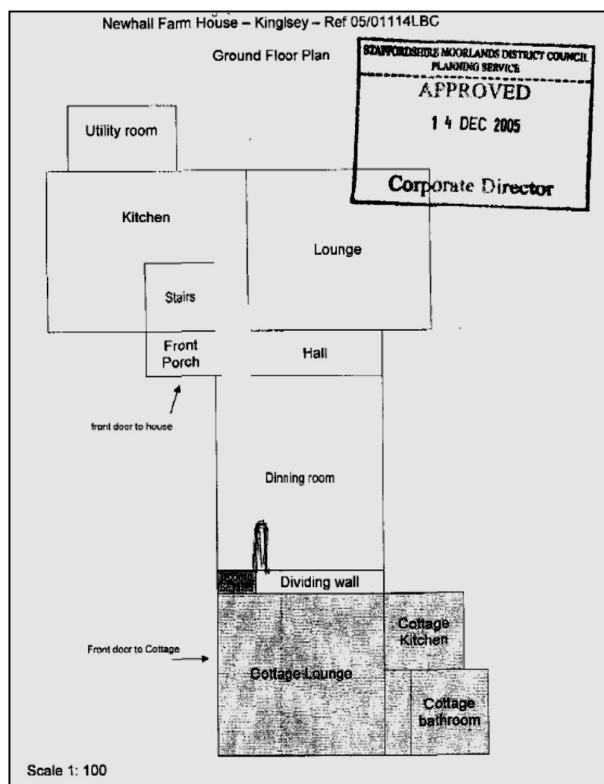


Fig. 3

Figure 3 above is taken from the files for the approved 2005 applications and shows the layout of the buildings and the position of the dividing wall and former linking door (bold black), now closed up.

In 1988 Listed Building consent was granted under reference 88/00269/OLD for *“partial demolition of listed building (demolition of single storey extension and construction of replacement extension)”*. There is no record of a planning consent at this date and it is understood to be likely that this is because planning permission was not required at the time for the works involved. The agent has suggested: *“it was not deemed to be development under s55 of the TCPA, just repair and maintenance.”*

PROPOSAL

The cottage shown by the red edge in the application (fig.2) is currently in process of being sold. It is now a separate entity from New Hall Farm House though it is understood was in the same ownership until 2018 when the farm house to which it is attached was separately sold. The purchase solicitor for the cottage has requested various planning and Listed Building matters to be confirmed as being *“acceptable and that there has been no breach of Planning / Listed Building Regulations”* – agent e-mail of 8th June in reply to the LPA.

Specifically the identified queries concern:

- i) the demolition of single storey extension and construction of replacement extension referred to in the 1988 LBC and believed by the applicant to relate to the single storey lean-to element on the east side
- ii) the windows of the dwelling
- iii) the closing up of a ground floor internal doorway to New Hall Farm House

The agent has ruled out a certificate of lawful development application as a means of resolving these matters as changes to a Listed Building cannot become lawful by the passage of time.

A revised drawing 006-1641-40 rev A has been submitted (by e-mail 25th June 2021) identifying the part of the building corresponding with (i) above using red cross-hatch.

RELEVANT LOCAL AND NATIONAL PLANNING POLICIES

Local Plan (adopted 9th September 2020)

- SS1 Development Principles
- SS8 Larger Villages Area Strategy (Kingsley)
- DC1 Design Considerations
- DC2 The Historic Environment
- H1 New Housing Development
- NE1 Biodiversity and Geological Resources
- NE2 Trees, Woodland and Hedgerows

T1 Development and Sustainable Transport

National Planning Policy Framework February 2019

Paragraph(s) 1 – 14;

Section(s) 4 – Decision making; 11 – Making effective use of land; 12 – Achieving well designed places; 15 – Conserving and enhancing the natural environment; 16 – Conserving and enhancing the historic environment.

Adopted Supplementary Planning Documents/Guidance (SPD/G):

- Space About Dwellings SPG
- Design Principles SPG
- Design Guide SPD adopted 21st February 2018

Local Plan Supporting Evidence Documents:

- Landscape and Settlement Character Assessment (2008)

SITE HISTORY / RELEVANT PREVIOUS APPLICATIONS

87/00654/OLD – Methodist Sunday School Hazles Cross Road Kingsley - conversion of disused Sunday school to dwelling – refused

87/00983/OLD – conversion of barn to furniture restoration facility – approved

88/00269/OLD – partial demolition of listed building (demolition of single storey extension and construction of replacement extension) – approved

05/01113/FUL – change of use of existing farm house and semi-detached cottage (with internal doorway) to form two separate dwelling houses – approved

05/01114/LBC – infilling of internal doorway between a Listed Building farm house and semi-detached cottage – approved

09/00993/LBC – Replacement windows – approved – but NB this seems to have related solely to New Hall Farm House

SMD/2021/0140 – Removal of condition 3 (local occupancy requirements) relating to SMD/2005/1183 – approved

SMD/2021/0269 – Retrospective listed building consent for rebuilding works, replacement glazing and infilling of internal doorway between farmhouse and semi detached cottage – pending – applicant advised to withdraw and seek 'letter of assurance' – letter of assurance has been provided

CONSULTATIONS

Publicity

Site Notice expiry date: none posted

Neighbour consultation period ends: 4th May 2021

Press Advert response period ends: 19th May 2021

Public Comments

None specific to this application but several comments were received in objection to related application SMD/2021/0140 which seeks a variation of Condition 3 of permission 05/01113/FUL by removal of the condition which represents a restrictive occupancy clause. From the occupiers of Windy Ridge; Windy Hollow and 11 Hazels Cross Road – objections to SMD/2021/0140 on grounds of parking arrangements not being sufficient and alleging a parking space has been created that is not in accordance with previous consents.

Town / Parish Comments

Kingsley Parish Council – supports the application.

SMDC Heritage Conservation Officer

The property is a Grade II Listed Building. The application advises that the following works have taken place to which my comments / notes in bold:

- Rebuilding of the building: ***Did the 1988 Consent grant rebuilding, how do we know it was rebuilt and how do we know that there was no harm to significance as is stated in the heritage statement?***
- Replacement windows: ***How do they know that the replacement windows were like-for-like and how do we know that there was no harm to significance?***
- Infilling of a doorway: ***Was the blocking up authorised? This would have altered the historic floorplan/circulation. Are we just talking about blocking a door or blocking to create a separate residential unit which is a separate matter.***

There are no details of the building before the works took place, exactly what works were undertaken and the condition of the building now. We need evidence to be able to assess the changes that have taken place. How can the HS claim that the purpose of the building was to support the principal building when it was part of it?

It seems as though the applicant wants us to review all the planning history, compare on site what has actually happened, evaluate impact on significance and resolve this so that it can be sold. The majority of this work is for the applicant's agents to do as is set out in the NPPF.

Following the above, in consultation with the case officer, the Conservation Officer further commented at 10th June 2021: "Yes, a letter of assurance that we are not aware of any breaches, based on the evidence that they have submitted, is probably the best way forward. They can't apply for consent when we don't know what we are consenting to."

OFFICER COMMENTS

Principle of Development

Residential occupancy of the building as a dwelling, separate from New Hall Farm House to which it is attached, is an approved use granted under 05/01113/FUL save

that it was granted subject to restricted occupancy condition 3. Being located within the development boundary of the larger village of Kingsley, residential use and development of a new dwelling would be / is supported in principle under the current Local Plan (2020) without the condition 3 restriction – policies SS8 and H1(4)(a) refer. Under a separate application SMD/2021/0140 approval has simultaneously been sought for the variation of the 05/01113/FUL consent by the removal of condition 3 which has been granted.

The LPA has discussed the difficulties of determining this application in the absence of full knowledge of what went before. It has been concluded that the application for Listed Building Consent cannot be determined and it is expected that the applicant will agree to withdraw that request and instead accept a letter of assurance under the LPA's 'Listed Building Enforcement Check' service. The Conservation Officer has advised that this would be a suitable way forward.

Taking a pragmatic approach to the planning matters it can be concluded by the LPA that there is on the balance of probabilities every likelihood that item (i) of the proposal:

- i) the demolition of single storey extension and construction of replacement extension referred to in the 1988 LBC and believed by the applicant to relate to the single storey lean-to element on the east side

was granted listed building consent under 88/00269/OLD – partial demolition of listed building (demolition of single storey extension and construction of replacement extension).

The LPA is now being asked to grant retrospective planning permission for this element of demolition and re-building. In adherence to the NPPF (section 16) the heritage impact is a material consideration in the planning assessment. The Conservation Officer has set out the difficulties of making that assessment given that the previous (pre-1988) condition and appearance seems to be unknown. Was the condition so parlous that re-building was the only option to retain the structure? Almost inevitably the act of re-building, even if to the same dimensions and appearance, would amount to some harm or loss to heritage significance and there would need to be justification (NPPF 200). That justification can only be 'assumed' in this case. Significantly however the Conservation Officer has been able to provide a letter of assurance to say that no issues have been identified to warrant Listed Building enforcement. The re-built section appears entirely compatible with the nature and character of the rest of the building and no obvious harm to heritage is apparent. If it is considered that some 'less than substantial' harm will or may have occurred there is now arguably a public benefit and even imperative to grant the retrospective consent as the issue is holding up the sale of a currently un-occupied building and it is in the public interest to ensure continued viable use of the building. Had obviously unacceptable work been identified, no doubt a letter of assurance would not have been provided and the LPA could have been expected not to grant retrospective planning approval pending likely demand for mitigating restoration.

As it stands, there would be little to be gained by refusing consent, given that any enforcement action would simply require the building to be rebuilt as close to the

original as possible. Whilst the detail of the original building is unknown, we are told that this was a like-for-like replacement and in the absence of evidence to confirm, as noted above, the rebuilding appears to have been sympathetically undertaken. Finally, the grant of the 1988 permission seems to indicate that the works were found to be acceptable in heritage terms at that time.

The LPA put it to the agent that the windows and internal door were not planning application matters and suggested that the application description should be amended accordingly to refer only to “retrospective consent for re-building to form single storey side extension”. The agent has responded:

“Under normal circumstances I would agree that the internal works and replacement windows would not require the benefit of planning permission. However given that the infilling of the doorway allowed the building to operate as a single dwelling and created a unit in its own right under permission SMD/2005/1183 [05/01113/FUL] and that planning permission as well as listed building consent was applied for the replacement windows I consider that they should be included in the description - happy to discuss further if needed.”

Whilst inclusion of the reference to windows and the internal door is perhaps confusing matters, the Conservation Officer having found no outright issues with the development in Listed Building terms including the windows and internal door (as confirmed by the Conservation Officer’s letter of assurance), there is no particular problem in granting a consent for the description of development as submitted.

Design

The design is subordinate and in broad terms in-keeping. The fact of the 88/00269/OLD – partial demolition of listed building (demolition of single storey extension and construction of replacement extension) gives a strong indication that the single storey now present will be the one to have had consent and, in the absence of any concerns as to design in strict planning terms, means it can be regarded as acceptable in design.

Amenity

Although the small kitchen window of the single storey faces south west to the terraced houses on Hazles Cross Road at a separation of c.12m which is closer than Space About Dwellings Guidance would recommend, given that this situation has prevailed at least since c.2005 and may therefore be considered immune from planning enforcement action and given that this is consistent with the established pattern of the relationship and spacing of the older developments in this road, the separation distance to neighbouring dwellings is acceptable.

It can be seen by reference to drawing 2009-1641-37A that well in excess of the minimum 65m² of outdoor amenity space is available at the property.

Highway Safety

The adopted guidance (2020 Local Plan) for parking standards would advise two parking spaces required for dwellings of up to three bedrooms. This property

benefits from at least a single pull-in space, see file photos 0363 and 0364 [and agent's photo 2676]. The neighbouring residents' objections to this under SMD/2021/0140 can be noted but the parking space they are referring to is not specifically a part of this application, being shown within the blue edged land. It is not known / has not been established nor has the applicant been able to confirm if this accords with Condition 4 of the 2005 consent 05/01113/FUL which was that:

4. Before the building works are commenced the parking area arrangements shall be in accordance with plans to be submitted to and agreed in writing with the Local Planning Authority.

Reason: In the interests of highway safety.

The 2005 plans had shown a parking space within the red edge directly to the south west of the building. The applicant seems to recall that this had not been acceptable to the LPA at the time and hence the condition to agree parking separately. Indeed the case officer report in 2005 confirms that this was not favoured due to loss of character and intrusion on the Listed Building curtilage. It is understood that the applicant believes the pull-in to the left (west) side of the drive was the agreed solution. There appears however nothing to confirm this, neither with the LPA nor from the applicant.

There are perhaps two ways this could be resolved: either a condition could be attached to require details later; or a condition attached to require the existing pull-in shown in the blue edge to be retained. Given the reservations in 2005 (with which the present case officer would also tend to concur) it may be considered appropriate to leave the matter to condition for later resolution and indeed this would then be consistent with the recently issued SMD/2021/0140 (removal of condition 3 re occupancy) ie. by repeating the condition from the 2005 consent:

2. Within 6 months of the date of this consent details of the parking area arrangements shall be submitted to and agreed in writing with the Local Planning Authority. The approved parking shall thereafter be provided, maintained and retained throughout the life of the development.

Reason: In the interests of highway safety.

However, it may alternatively be considered that parking is not a matter for consideration under this application which is not about the use of the dwelling as such but about specific alterations and the decision would be overreaching if it were to include a condition about parking. As already noted a parking condition did form part of the recent SMD/2021/0140 decision.

Heritage

As regards a Listed Building there is a statutory duty placed on the LPA, under section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990, to consider the impact of the proposal on the special architectural and historic interest of the Listed Building affected, and its setting and "have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses".

An LPA can only discharge its duty if it has carried out a proper assessment of the impact on a Listed Building, is conscious of the duty and has demonstrably applied it

in assessing the proposal. This assessment extends to setting, the surroundings in which a heritage asset is experienced.

Historic Environment Policy DC2 of the Local Plan is to give protection to designated heritage assets and their settings and non-designated heritage assets as set out in the NPPF.

NPPF paragraph 199 states 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".

Paragraph 200 goes on to say that: "any harm or loss [to a heritage asset] should require clear and convincing justification."

NPPF paragraph 202 states that: "Where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal, including securing its optimum viable use."

The LPA has very limited basis by which to assess the impacts of this proposal due to the absence of any information as to what went before – as the Conservation Officer has rather fully set out. It is however possible to judge that in planning terms the extant building and works included in this retrospective application are not detrimental to the building appearance. They are also, in broad terms, sympathetic to and appropriate to the historic style of the overall building including New Hall Farm House (also Listed) to which the application building is attached. The issue has been fully discussed under 'principle' above.

CONCLUSION / PLANNING BALANCE

This application does not seek consent for the use of the property within the red edge as a dwelling. This has been established since the 2005 consent and is not in question. It may be considered therefore that matters relating to availability of parking, outdoor amenity space and indoor amenity space are not relevant to this application which is concerned solely with the three matters set out under 'proposal' above. Two of these however are not considered matters which require planning consent. Their inclusion in the application description is superfluous. The agent however has not been willing to amend the description to omit the references to the windows and internal door. With the submission of a revised plan to identify the position / extent of the re-building no additional clarification of this is required in the decision notice. In other words the plan is sufficient to show that the decision can only strictly be concerned with the single storey element understood to have been a replacement re-build under LBC 88/00269/OLD as now identified on the revised plan.

The potential heritage implications of the re-building (and the windows and internal door) have been thoroughly considered in the report and the conclusion reached that in the absence of obvious harm or damage to heritage significance – other than that there is the serious matter of re-building having occurred but with a Listed Building consent in 1988 (though there are no drawn plans from that date to confirm it was

this) – and given the importance of securing continued longterm viability for continued use of the building it would be in the public interest to grant the consent.

OFFICER RECOMMENDATION : **Grant retrospective consent for re-building [to form single storey side extension kitchen and bathroom]**

Case Officer: Arne Swithenbank

Recommendation Date: 18th June 2021

Revised 3rd July 2021 following receipt of plan 006-1641-40 rev A

Revised again 11th Aug 2008 and 27th August 2021

X *B.S. Haywood*

Signed by: Ben Haywood

On behalf of Staffordshire Moorlands District Council