
Appeal Decisions

Site visit made on 20 September 2016

by A Napier BA(Hons) MRTPI MIEMA CEnv

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 26 September 2016

Appeal A Ref: APP/C1950/W/16/3151364

**Bailiffs Cottage, 21 Digswell Park Road, Welwyn Garden City,
Hertfordshire AL8 7NW**

- 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 Anthony Haddy against the decision of Welwyn Hatfield Borough Council.
 - The application Ref N6/2015/1409/House, dated 27 August 2015, was refused by notice dated 28 April 2016.
 - The development proposed is described as 'the erection of a garden room following demolition of existing garden room and re-using materials from the existing dwelling'.
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Appeal B Ref: APP/C1950/Y/16/3151348

**Bailiffs Cottage, 21 Digswell Park Road, Welwyn Garden City,
Hertfordshire AL8 7NW**

- The appeal is made under section 20 of the Planning (Listed Buildings and Conservation Areas) Act 1990 against a refusal to grant listed building consent.
 - The appeal is made by Mr Anthony Haddy against the decision of Welwyn Hatfield Borough Council.
 - The application Ref 6/2015/1829/LB, dated 27 August 2015, was refused by notice dated 28 April 2016.
 - The works proposed are described as 'erection of a garden room following demolition of existing garden room and re-using materials from the existing dwelling'.
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Decisions

1. Appeal A and Appeal B are dismissed.

Preliminary Matters

2. The descriptions used in the headings above are those used by the Council in its decision notices, as they appear to me to be accurate summaries of the longer narrative description given on the joint application form for planning permission and listed building consent.
3. The details provided indicate that the appeal site is within the Green Belt. It has not been suggested, nor do I consider, that the proposal would represent inappropriate development within the Green Belt, or cause material harm to its openness, and I intend to consider Appeal A on this basis.

Main Issue

4. The appeal dwelling is a grade II listed building, which is a designated heritage asset and I am mindful of my statutory duties in this regard. Whilst the appeal outbuilding is not listed independently, from the evidence before me, I am satisfied
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that it was constructed before 1948. Furthermore, given its close physical proximity to the dwelling, as well as the scale and design of the building, with windows and doors facing the rear elevation of the dwelling, I am satisfied that the appeal outbuilding is an ancillary structure that has a close historic association with the main house and that it would be appropriate to treat the outbuilding as part of the listed building, under s.1(5) of the Planning (Listed Buildings and Conservation Areas) Act 1990.

5. The main issue in this appeal is whether or not the proposal would preserve the listed building, any features of special architectural or historic interest that it possesses, or its setting.

Reasons

6. Paragraphs 128 and 129 of the *National Planning Policy Framework* (the Framework) require the significance of heritage assets to be described and assessed in the consideration of proposals that may affect them. The *Planning Practice Guidance* (PPG) indicates that being able to properly assess the nature, extent and importance of the significance of a heritage asset, and the contribution of its setting, is very important to understanding the potential impact and acceptability of development proposals. A clear understanding of the significance of the heritage asset and its setting is necessary to develop proposals which avoid or minimise harm.¹
7. The appeal dwelling is a detached house, which is set back some distance from the road. There is a relatively recently constructed and extended detached garage to one side and the detached appeal outbuilding immediately to the rear of the dwelling, with substantial landscaped gardens beyond. From the evidence available to me, including the listing description, I consider that the significance of the listed building is largely derived from its residential use, age, form, fabric and architectural features. In addition, its historic association with the Digswell House estate and the setting of the building, within a large garden on part of the former estate, are also important to its significance.
8. The appellant considers that the appeal outbuilding no longer has any historical or architectural interest² and its siting effectively screens the garden from the rear elevation of the dwelling. I recognise that this siting is likely to cause some inconvenience for the current occupiers and does not necessarily accord with modern expectations of the relationship of a garden to a house. However, the evidence available to me, including the appellant's *Heritage Statement*, provides only limited analysis of the historic origins of the appeal dwelling and there is little detailed assessment of the contribution made by the layout and function of the land around the house to its setting and significance, including the siting of the outbuilding and the historic use of the garden area.
9. Furthermore, whilst the outbuilding currently appears to be used as a home office, there is little before me to assess how the use of this outbuilding may have altered over time. It is not disputed that the building has previously been extended, with substantial alterations to its fenestration. However, the details provided also indicate that the building retains a reasonable amount of historic fabric and its character remains that of an ancillary outbuilding.
10. From the evidence available to me, I consider that the design and close proximity of the outbuilding to the rear of the dwelling are indicative of a strong functional relationship to the house that is very likely to be closely linked to the history of the

¹ PPG: ID 18a-009-20140306 and 18a-019-20140306

² Appeal statement, paragraph 3.13

site. To this end, my attention has also been drawn to two pairs of semi-detached cottages nearby, which I saw on my visit to the area. I understand that these neighbouring houses also formed part of the Digswell House estate and they appear to be similar in age and design to the appeal dwelling. These houses also have outbuildings located immediately to the rear of the dwellings, which supports my findings above.

11. Consequently, taking these matters into account and given the relative siting, design and close association of the outbuilding and the dwelling, I am not satisfied that the evidence provided adequately demonstrates that the outbuilding does not make a valuable contribution to the setting and historic character of the listed building. As such, I consider that the removal of the building as proposed would not be appropriate, as it would have the real potential to be materially harmful to the significance of the heritage asset and diminish its contribution to the group of other estate buildings within the area.
12. The proposal would involve the replacement of the outbuilding with a similar building to one side of the garden. However, whilst the proposed replacement would reuse some of the existing materials, the new building would be materially different to the existing in its design details. Moreover, the difference in siting proposed would significantly alter the relationship of the outbuilding to the appeal dwelling. As such, I consider that the replacement as proposed would not address the harm to the historic character, setting and significance of the listed building identified above.
13. Given the siting of the existing and proposed outbuildings, it is not a matter of contention that the proposal would not have a material effect on the streetscene or the visual amenities of the wider local area. Nonetheless, considered overall, I conclude that the proposed removal of the outbuilding would not preserve the listed building and would materially alter the setting of the appeal dwelling, which would have the real potential to be detrimental to its special interest and harmful to its significance. Therefore, the proposal would be contrary to the *Welwyn Hatfield District Plan 2005* Policy R27, which seeks to protect the historic environment.
14. I give considerable importance and weight to the risk of harm to the significance of the heritage asset. However, the proposal would not lead to the loss of the main house and would lead to the removal of a detached outbuilding within its setting. From the evidence available to me, I consider that the harm, whilst material, would be less than substantial. Paragraph 134 of the Framework requires that, in the case of designated heritage assets, the harm should be weighed against the public benefits of the proposal, including securing its optimum viable use.
15. The public benefits resulting from the scheme would be relatively limited. However, the proposal would enable an improved level of intervisibility between the appeal dwelling and its garden, which would increase views of the rear elevation of the house from the garden and have some potential to contribute to sustaining the residential use of the property in the long-term. However, I note that reasonable views of the rear garden are available from the existing raised patio area to the side of the dwelling and that views onto other parts of the garden also appear to be available from within the main reception rooms of the house.
16. The appeal dwelling is one of a number of relatively sizeable individual dwellings set within generous plots along this part of the road. Due to the informal pattern of development, relatively narrow road, absence of footways and large number of mature trees, the immediate vicinity of the appeal site has a distinctively verdant and quasi-rural character. As such, given the overall qualities of the appeal site

and its location, there is nothing before me that leads me to consider that the residential use of the dwelling would be at real risk should the proposal not take place.

17. Furthermore, even if an enhanced visual connectivity between the dwelling and the garden was considered necessary, I am not satisfied that the details provided demonstrate that other alternative, potentially less harmful, schemes would not be viable or feasible. Therefore, whilst the proposal would have some benefits in these respects, I consider overall that they would be relatively limited. Nonetheless, given the general encouragement in the Framework for such development, I give them moderate weight.
18. Paragraph 132 of the Framework advises that great weight should be given to the conservation of a heritage asset in considering the impact of a proposal on its significance. Significance can be harmed or lost through alteration or destruction of the heritage asset or development within its setting and, as heritage assets are irreplaceable, any harm or loss should require clear and convincing justification. In addition, paragraph 131 of the Framework refers to the desirability of new development making a positive contribution to local character and distinctiveness. For the reasons given, I consider that the proposal would not make such a contribution and the justification provided for the loss of the outbuilding is not clear or convincing. As such, whilst the use of the site as proposed may be viable, it would not represent its optimum use.
19. For these reasons, I conclude that the benefits of the proposal would not be sufficient to outweigh the real risk of harm identified to the significance of the heritage assets and the proposal would not meet the aims of paragraph 17 of the Framework, to achieve high quality design, take account of the different roles and character of different areas and conserve heritage assets in a manner appropriate to their significance.

Other matters

20. In respect of Appeal A, it has not been suggested, nor do I consider from the details provided, that the proposal would have an adverse effect on the living conditions of neighbouring occupiers. Nonetheless, the absence of harm in this respect would not address the harm identified above and, as such, this matter does not lead me to alter my findings above.
21. I am mindful of the rights of the appellant under the Human Rights Act, including in relation to Article 8 and Article 1 of the First Protocol. In these respects, it is necessary to balance the fundamental rights of the individual against the legitimate wider public interest. For the reasons given above and having regard to the legitimate and well-established planning policy aims to protect the historic environment, I consider that a refusal of permission would be proportionate and necessary and would not result in an unacceptable violation of those rights.

Conclusions

22. For the above reasons and having regard to all other matters raised, I conclude that the appeals should be dismissed.

A Napier

INSPECTOR