

Appeal Decisions

Hearing held on 16 May 2017

Site visit made on 16 May 2017

by S J Papworth DipArch(Glos) RIBA

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

Decision date: 26th May 2017

Appeal A: APP/U2235/W/16/3165556

Court Lodge Park, Lower Road, West Farleigh ME15 0PD

- 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 Jason Butler against the decision of Maidstone Borough Council.
 - The application Ref 16/506173/FULL, dated 1 August 2016, was refused by notice dated 27 September 2016.
 - The development proposed is demolition and replacement of the existing laundry room, outbuildings and ragstone wall with a new laundry room building.
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Appeal B: APP/U2235/Y/16/3165560

Court Lodge Park, Lower Road, West Farleigh ME15 0PD

- 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 Jason Butler against the decision of Maidstone Borough Council.
 - The application Ref 16/506174/LBC, dated 1 August 2016, was refused by notice dated 27 September 2016.
 - The works proposed are demolition and replacement of the existing laundry room, outbuildings and ragstone wall with a new laundry room building.
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Decisions

1. I dismiss both appeals.

Main Issues

2. In both appeals these are;
 - The effect of the proposals on the significance of the listed building and its setting.
 - Whether there are public benefits or other justification for the works, and the weight to be attached to them.

Reasons

Preliminary Matters

3. The appellant introduced drawing 4381-PD-111B which sought to alter the proposed wall finish and to amend the design of the windows. It was agreed that in view of the lack of public objection at appeal, the limited nature of the
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amendments and the fact that the changes overcame the Council's second reason for refusal, the drawing should be accepted for consideration at appeal.

4. One of the matters identified in the Statement of Common Ground as not being agreed was the weight to be afforded the emerging policy in the Maidstone Borough Local Plan (Regulation 19) February 2016. In fact the Council had not referred to any policies in the reasons for refusal, only to paragraphs in section 12 of the National Planning Policy Framework on conserving and enhancing the historic environment. Since section 38(6) on the primacy of the Development Plan only applies to the planning appeal, it was agreed that the emerging plan, which is at an early stage in any event, need not be referred to.
5. Another matter not agreed concerned the view expressed in paragraph 2.1 of the Council's appeal statement that *'the planning history set out above demonstrates in the LPA's view that the Council has been fairly generous over the years in allowing various extensions, conversions and other alterations to the principal house and its outbuildings'*. It was agreed that the wording may not have been entirely appropriate, but that in any event, each decision would have been taken within the policy and statutory framework of the time, and that is how the present proposals should be approached.

Listed Building and Setting

6. Sections 16(2) and 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 require special regard to be had to the desirability of preserving the listed building or its setting or any special architectural or historic features it possesses. Paragraph 132 of the National Planning Policy Framework 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. The more important the asset, the greater the weight should be. The courts have determined that considerable importance and weight should be given to harm found to the significance of listed buildings.
7. With regard to the statement in paragraph 132 regarding the importance of an asset, the Council expressed the view that Grade II appeared unduly low considering the nature of the house and its setting. That is not a matter for this appeal, but it is necessary to identify the architectural or historic significance of the building as a first step in the consideration of the appeals.
8. The original house has clearly been added to and the appellant is in the process of carrying out further works, as set out in the Planning History section of the Council's statement and as identified at the site inspection. The works to the cottage (Ref; 13/1765) have commenced and the intention was expressed of carrying out the erection of the conservatory and loggia that also forms part of that permission, although that work has not yet commenced. Assuming this further range of building works are carried out, the balance of what is described as 'high-status' as opposed to 'service' spaces will have altered significantly towards the former. This is no-doubt in line with the present-day use of the dwelling, although there is a stated need for domestic and gardening staff for the building and estate's upkeep and operation.
9. The inclusion of the cottage, previously service accommodation, into the high-status part of the house, through the carrying out of the permitted works, would result in access to the existing laundry room being through this part, and

whilst this will be considered in the second main issue as part of the justification for the works, the appeal proposal would provide a garden entry to a new laundry and boot-room, as well as a toilet before entering the re-ordered cottage at ground floor, with a further entry arranged into the main house. The appeal building would also house a boiler entered from outside, and this re-location forms another part of the justification for the works.

10. The significance of the house resides to a great extent in the architectural, aesthetic and historical value of the main house and the architectural and aesthetic interest has been continued with the later additions and those permitted but still to be carried out. In total these alterations and additions are substantial interventions, and result in a 'generous' provision of spaces and facilities, although this should not be regarded as 'generosity' on the part of the Council, as previously set out in the preliminary matters. To the extent that they continue to tell the story of the house's evolution and changes in how large houses are occupied, the additions add to the historic interest. The 'cow-house' is also a structure of historic significance, but less so architecturally although it has a pleasing rural aesthetic quality when viewed from the rear of the principal house and from within the courtyard.
11. The buildings that would be removed, including stores which are said to be redundant, contribute very limited aesthetic or architectural significance to the whole, but do present moderate historic interest as indicating a previous arrangement of the relationship between high-status areas and service areas. In that respect they relate well to the courtyard and other than the laundry room, have a functional link with both the front and the rear gardens, in addition to the courtyard. That the laundry room has a link within the house appears a likely historical necessity for collecting washing, and there is evidence of a previous link with the courtyard, as would be expected for drying linen and the like. As a result there is moderate evidential value of how country houses were served.
12. However, there are shortcomings in the quality and construction of these buildings, and in particular, the roof of the store and attached gardeners' toilet are crudely dressed into the rear of the ragstone wall and appear as a discordant feature above it. To conclude on the matter of the removal of these three areas, the store, the gardeners' toilet and the laundry room, whilst removing evidential value, that could be saved to a sufficient extent through a thorough recording programme, and the architectural or historic loss would be limited. This will be considered in the balance later.
13. The two stores to the north-west along the rear of the wall are similarly built to the ragstone wall, but in that case present a pleasing, utilitarian roof form to the view from the rear gardens, and like their counterparts to the immediate west of the cottage, relate well to the function of the courtyard and as ancillary estate buildings. In this case the architectural loss would be moderate, and hence greater than that of the three buildings considered previously, and this again will be considered in the balance.
14. In terms of removals, that leaves the ragstone wall to be considered, and this forms the major part of the Council's remaining objections. This wall runs from a junction with the brickwork of the cottage obliquely across the site to run parallel to the swimming pool to the north-west. Whilst the later swimming pool and the roof of the two stores recently referred to are set parallel to the

wall, its oblique line is contrary to the general line of buildings and is continued by the brickwork of the chamfered wall of the cottage. That chamfer is permitted to be removed under the 2013 application reference, whereby the cottage would be squared off on its north elevation.

15. The appellant's analysis of significance refers to the wall as appearing on historic maps which date it prior to 1845, and to there having been a manor at Court Lodge since medieval times. From its angle and the way that later buildings have been arranged to address that angle, including the cottage, it appears reasonable to consider that it pre-dates those buildings and it may have had some significance as a boundary, or at the least it was found useful to retain it as a delineation between the high status north gardens and the service areas, in the same way as the western range from the house to the 'cow house' does to the south gardens.
16. The stonework appears in places more significant than a mere rural boundary wall, there being a mix of rubble walling and dressed stone, and the curved coping at the location of the store and gardeners' toilet appears particularly refined. It is not possible to state the wall's provenance, but as discussed at the Hearing, it appears reasonable to infer that at least some stones originated in a building that pre-dated the wall and may have been survivors of a previous building on this site, as transporting stones unnecessarily would have been unlikely. As a result, the wall contains a significance that is greater than might have been the case were it all of stone sourced locally afresh and roughly hewn for incorporation into a rural wall. However, no firm evidence exists to be able to attach more than a modest level of significance to these inferences.
17. The appellant draws attention to the formation of a window in this wall to light what would otherwise have been a dark corner of the laundry room. That appears a utilitarian insertion similar to that more readily visible in the chamfered wall of the cottage alongside, having a concrete cill and exposed lintol. Limited significance attaches to this, but unlike the junction of the roof of the store and attached gardeners' toilet with the rear of the wall, no great visual harm has occurred and the window is part of the historic development of the dwelling and its service areas.
18. The wall still displays an historic and social significance, being evidence of a wish to screen certain service activities from the high-status lawns and gardens to the north, in a similar way to the screen wall and western range between the service area and the southern gardens. This social division is an important element of country houses, and is also found in the larger town houses.
19. The removal of part of the wall would be necessary in order to carry out the proposed new works of the boot room and laundry, boiler house and toilet, with an entrance lobby, contained within a new attached building. The Council withdrew their objection to the design and materials of the building, and of itself and with regard to its relationship with the house and later additions, as well as with the cottage as permitted to be altered, the Council's concession on receipt of drawing 4381-PD-111B is concurred with.
20. However, there is one unresolved and potentially harmful item, and that is the flue for the new boilers. The appellant states that he is not able to provide detailed information on this, as it would be a later design matter, presumably as a mechanical and electrical specialist installer's responsibility. Be that as it may, listed building works that can have a profound effect on the character and

appearance of the building should be detailed at consent stage, and this failing counts against the proposal.

21. In addition to that required to accommodate this new building, the remainder of the wall as far as the swimming pool area would also be removed in order to form a landscaped link between the front garden and the rear lawns and garden, leaving a return wall only of the western store as a screen to the courtyard. Whilst some evidential value would be retained in the standing wall further to the west, and in the proposed re-use of stone in the new building, this opening-up would blur, or largely remove the evidence of the social division in close proximity to the house being served. The proposed open landscaping would not be able to restate this deliberate and historic division, and would result in the new extension of the high-status parts of the house overwriting the historic and social evidential value of the wall and its function.
22. In view of these findings, whilst limited weight is attached to the loss of the wall as a structure, and it could be documented and parts of the fabric re-used, its association with the social history of the house and those that served it cannot be replicated or adequately recorded and the blurring of the division between the high-status gardens and the service areas would be a seriously adverse effect.
23. Harm has therefore been identified to the significance of the listed building, but that is very limited with regard to the loss of the eastern store, toilet and laundry room, moderate with regard to the loss of the western store and roof, and more pronounced with regard to the loss of the wall and the consequent opening up of the link between the front and rear garden areas. The level of harm is 'less than substantial' in each case, although that caused by the removal of the wall is higher up the scale than the other two losses. This level of harm is covered by paragraph 134 of the Framework which states that this harm should be weighed against the public benefits of the proposal, including securing its optimum viable use. These matters will be considered in the next main issue.

Benefits, and Planning and Heritage Balance

24. With regard to the optimum viable use, paragraph: 015 Reference ID: 18a-015-20140306 of the web-based Planning Practice Guidance states that the vast majority of heritage assets are in private hands, which is the case here. The passage goes on to say that sustaining heritage assets in the long term often requires an incentive for their active conservation, and that putting heritage assets to a viable use is likely to lead to the investment in their maintenance necessary for their long-term conservation. That is no-doubt often the case where proposals are being put forward for interventions or alternative uses, but in the case of Court Lodge it is clear that there has been significant investment, as stated by the appellant, and that the dwelling is likely to remain in its original, and also optimum from a conservation viewpoint, use. There does not appear to be a firm connection between the carrying out of the proposed works and the likelihood of the building remaining well-cared for and used.
25. It is the case that the removal of the store and gardeners' toilet, and possibly the laundry room, would bring about an improvement in the presentation of the wall, and were the wall to remain, that would be sufficient justification in the balance, as a public benefit of enhancing the presentation of the building

without striking at the heart of its significance. The removal of the western stores and the more particularly their roof over-sailing the wall and appearing as a rural service building could be justified as part of an acceptable re-use of the space or re-ordering of the uses of buildings, but as part of the opening-up that has been found previously to be harmful, there are insufficient public benefits for that work alone.

26. The proposed removal of the wall has been found to be the most harmful intervention, albeit still within the 'less than substantial' range. It appears that this would allow a revised arrangement of the cottage re-ordering (Ref; 13/1765), but it is unclear why this was not proposed at that time as part of a larger integrated scheme. There is insufficient evidence that the further works to the cottage allowed by the removal of the wall are essential to the efficient or pleasurable running of the house.
27. What is clearly reliant on the removal of the wall is the erection of the new building, but that strictly need only bring about the demolition of a part. More particularly, it is the opening-up and landscaping that relies on this removal, and there appears limited justification or public benefit for that part of the work. Some limited rearrangement of levels is required to reconcile the entry to the new boiler room, and the relocation of the oil tanks would be a benefit, but none of this appears to require the harmful opening up.
28. On the subject of boilers, it is stated that the present location under the kitchen within the main house, causes a heat build-up in the kitchen, presumably as case and flue losses, and insulation to the soffit of the boiler room has not overcome this. As a benefit to assist in the enjoyment of the house, and ultimately an incentive to maintain it, relocation would be desirable. The doubts over the nature of the new flue lessen the weight that can be attached to this matter, and in any event, there is not a strong connection between the need to relocate the boilers and the wish to carry out the harmful opening-up.
29. To conclude on the planning and heritage balance, although the limited harm caused by the removal of the sub-standard store, gardeners' toilet and laundry room is outweighed by the benefits to the appearance of the wall, the harm through the removal of the western stores as part of the opening up of the area is not outweighed by benefits. The removal of the length of wall proposed appears to be connected more with the opening up which has been found to be harmful, and less with the requirement for the new building; the harm here is more profound and benefits have not been identified sufficient to outweigh that harm.
30. Significant parts of the scheme are unacceptable and not justified by benefits, and it is not possible to identify elements that are free-standing and capable of going ahead. The scheme should be presented as a whole and be acceptable as a whole, and that is not the case here. The proposals fail the tests in the Planning (Listed Buildings and Conservation Areas) Act 1990 of preserving the building or its setting or any features of special architectural or historic interest which it possesses, and do not accord with section 12 of the Framework concerned with listed buildings.

Conclusions

31. The various elements of the proposals cause differing degrees of harm, but the removal of the length of wall proposed would cause a blurring of the previous social and hence historic significance of the service areas and is unacceptable for that reason. No benefits sufficient to outweigh the harm have been identified and hence the proposal is contrary to statutory requirements and national policy. For the reasons given above it is concluded that both of the appeals should be dismissed.

S J Papworth

INSPECTOR

APPEARANCES

FOR THE LOCAL PLANNING AUTHORITY:

L Harvey	Maidstone Borough Council
P Craggs	Maidstone Borough Council

FOR THE APPELLANT:

C Thurlow	T B Holdings
J Burton	Beacon Planning
R Ranson	Offset Architects

DOCUMENTS

Document	1	Signed Statement of Common Ground submitted jointly
Document	2	Drawing 4381-PD-111B accepted as an appeal drawing submitted by appellant
Document	3	Photographs submitted by Council
Document	4	Conditions 6 – 9 submitted by Council