
Appeal Decisions

Site visit made on 18 July, 2017

by S. J. Buckingham, BA (Hons) DipTP MSc MRTPI FSA

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

Decision date: 17th August, 2017

Appeal A Ref: APP/B1415/W/17/3168285

The Cupola, Belmont Road, Hastings, TN35 5NR

- 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 Laurence Mullane against the decision of Hastings Borough Council.
 - The application Ref: HS/FA/16/00641 dated 9 August, 2016 was refused by notice dated 27 October, 2016.
 - The development proposed is replacement of existing boundary fence for reasons of safety and security along Belmont Road.
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Appeal B Ref: APP/B1415/Y/17/3168286

The Cupola, Belmont Road, Hastings, TN35 5NR

- 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 Laurence Mullane against the decision of Hastings Borough Council.
 - The application Ref: HS/FA/16/00642 dated 9 August, 2016 was refused by notice dated 27 October, 2016.
 - The works proposed are replacement of existing boundary fence for reasons of safety and security along Belmont Road.
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Decision Appeal A

1. The appeal is dismissed.

Decision Appeal B

2. The appeal is dismissed.

Application for costs

3. An application for costs was made by Mr Laurence Mullane against Hastings Borough Council. This application is the subject of a separate Decision.

Preliminary Matters

4. Conflicting versions of the appellant's name have been given in appeal documents. The appellant's agent has confirmed that there was an error on the original application form, and that the correct name is Mr Laurence Mullane. Accordingly I have used that name in the headings to this decision.
 5. The boundary fence which is the subject of these applications has already been erected.
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6. The appellant has suggested that neither planning permission nor listed building consent were required for the boundary fence. However, it is not a matter for me to determine in the context of an appeal made under section 78 of the Town and Country Planning Act 1990 in respect of the planning permission. As the fence is fixed to the derelict stable, which predates 1948 and is therefore a curtilage listed building, and as the changes would affect the significance of the listed building, I conclude that under the provisions of the Planning (Listed Buildings and Conservation Areas) Act 1990, listed building consent was required.

Main Issue

7. The Cupola is listed Grade II* and is adjacent to Belmont House which is listed Grade II. The main issues are therefore the effect of the boundary fence on the special architectural and historic interest of the listed buildings and their settings, whether it would preserve or enhance the character and appearance of the Hastings Old Town Conservation Area, and its effect on the significance of these heritage assets.

Reasons

8. The Cupola is an Italianate villa fronted by an octagonal belvedere, the work of Joseph Kay, a locally important architect. Its romantic style is emphasised by its hillside location facing the wooded slopes of West Hill, with vegetation tumbling over the edge of a high sandstone retaining wall adjoining Harold Road. The wall is constructed in coursed ashlar blocks with a half-round coping, and turns the corner with Belmont Road to become the boundary wall to the front garden. It follows the upward slope of that road through a series of shallow curved steps and thereby enhances the romantic style of the property.
9. The Cupola faces Belmont House, also an Italianate villa, across Belmont Road, which at this point is narrow and winds up from Harold Road, curving out of sight behind Belmont House. It is restricted with timber posts to prevent heavy vehicle access. The front doorways to the dwellings open modestly onto this minor road rather than featuring more formal entrances onto the main road, Harold Road. These characteristics, combined with the curved bastion-like retaining walls to Belmont House, evoke the rambling and defensive streetscape of a traditional Italian hill town.
10. It appears to me therefore that both the relationship between the two buildings and their boundary treatments are important elements of their design, contributing both to their special interest, and to their joint setting, also part of their special interest.
11. The fence which is the subject of the appeals is constructed in close-boarded timber set on concrete posts, with a rough infill at ground level of horizontal timber boards. It runs along the boundary of The Cupola flanking Belmont Road, starting with a double gateway at the ruined stable structure to the rear of the house and continuing up the hillside. It sits nearly on the back edge of the carriageway with a very narrow strip of ground outside.
12. The fence is relatively coarsely cut, and is stained a mid-brown colour. It follows the slope of the ground, except for a stepped detail, which, as it occurs in the middle of the gateway, appears odd. The structure therefore presents a

long continuous façade, in modern, workmanlike construction and materials which contrast unfavourably with the polite architectural characteristics of the white rendered external faces and mellowed sandstone boundary walls to the listed buildings.

13. The curve of Belmont Road, when viewed from the junction with Harold Road, means that the fencing and double gateway can be seen in the backdrop to the listed buildings and the space between them, where it forms a conspicuously discordant element, exacerbated by its being brought forward to the back edge of the roadway. It therefore causes harm to the setting of the listed buildings and the significant area of interface between the two, and which, although serious, would be less than substantial harm in the terms meant by the National Planning Policy Framework (the Framework). Paragraph 134 of the Framework requires that less than substantial harm is to be weighed against the public benefits of a proposal, including securing the optimum viable use of the building.
14. It is understandable that the appellant would wish to secure the boundaries of his site, but the current fence replaces a previous fence securing the site. That fence, while also of modern and unsympathetic construction, was set behind a thick strip of screening vegetation, now removed, and was not particularly noticeable in the setting of the listed buildings. Its replacement does not therefore provide any public benefit. No compelling evidence has been put before me of illegal parking generated by the setting of the previous fence back from the edge of Belmont Road, and I am not therefore convinced of the benefits of the proposal in that respect. As therefore any benefits arising from the fence would therefore be primarily personal benefits to the appellant, I conclude that they do not outweigh the harm that I have identified.
15. The appeal site is located within the Hastings Old Town Conservation Area, although no appraisal of its character has been put before me. However, as The Cupola is a significant listed building within the town, and as the view up Belmont Road is a significant element of its setting, and an evocative element of townscape, I conclude that these features make a positive contribution to the character and appearance of the area overall. As, for the reasons given above, I conclude that the fence would harm the setting of The Cupola and Belmont House and the streetscape between them, I conclude that it would therefore also have a harmful effect on the character and appearance of the conservation area. This harm too would be less than significant, and, for the reasons given above, not offset by any public benefits.
16. Although the remainder of Belmont Road contains a number of modern houses, garages and boundary treatments, they are set back from the road frontage and are therefore less conspicuous. From the bottom of Belmont Road, these modern interventions are not visible, with the exception of the roof and chimneys of 25 Belmont Road, which is set some distance away and partly screened by a tree, and is not therefore particularly prominent in the view.
17. While the appellant suggests that the fence is temporary, there is nothing in the evidence before me and nothing I noted on site to indicate that this is the case.
18. As the construction of the fence would potentially affect above-ground heritage rather than buried remains, it is not surprising that the East Sussex Archaeological Department chose to make no comment on it.

19. I note the appellant's contention that Belmont Road is a private one, but this would not cause me to alter my conclusions on the planning merits of the development. The appellant has also suggested that the fence is in an area which is not part of the curtilage of the listed building, but this too would not cause me to alter my conclusions on its harmful effects on its setting.

Conclusion

20. I conclude therefore that the harm caused by the fence is contrary to the expectations of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the Act) which in Sections 16(2) and 66(1) requires the decision taker to have special regard to the desirability of preserving a listed building or its setting, and in Section 72 requires special attention to be paid to the desirability of preserving or enhancing the character or appearance of a conservation area. There would also be conflict with the National Planning Policy Framework (the Framework), which states at paragraph 132 that when considering the impact of a proposal on the significance of a designated heritage asset, great weight should be given to the asset's conservation.
21. The development would fail to comply with policy EN1 of the Hastings Planning Strategy 2014, which seeks to protect the significance and setting of listed buildings and conservation areas and seeks to encourage development which sustains these.
22. Therefore, in the absence of any public benefits to outweigh this harm, for these reasons⁷ and having regard to all the relevant factors set out above, I conclude that the appeals should be dismissed.

S J Buckingham

INSPECTOR