

Appeal Decisions

Site visit made on 28 June 2017

by R Barrett BSc (Hons) MSc Dip UD Dip Hist Cons MRTPI IHBC

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

Decision date: 29th August 2017

Appeal Ref: APP/U2235/W/17/3171047 (Appeal A)

Slade House, Pickering Street, Loose ME15 9RH

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for planning permission.
 - The appeal is made by Mr and Mrs D Pares against the decision of Maidstone Borough Council.
 - The application Ref 16/505643/FULL is dated 30 September 2016.
 - The development is described as 'proposed erection of two detached dwellings with garaging, parking access, provision and other associated works plus restoration works to the front facade of the existing property (Slade House)'.
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Appeal Ref: APP/U2235/Y/17/3174122 (Appeal B)

Slade House, Pickering Street, Loose ME15 9RH

- The appeal is made under section 20 of the Planning (Listed Buildings and Conservation Areas) Act 1990 against a failure to give notice within the prescribed period of a decision on an application for listed building consent.
 - The appeal is made by Mr and Mrs D Pares against the decision of Maidstone Borough Council.
 - The application Ref 16/505644/LBC, is dated 4 July 2016.
 - The works proposed are 'proposed erection of two detached dwellings with garaging, parking access, provision and other associated works plus restoration works to the front facade of the existing property (Slade House)'.
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Decisions

1. The two appeals are dismissed and the planning and listed building consent applications refused.

Procedural Matters

2. Appeal A and Appeal B relate to the same site. Whilst I have considered each proposal on its own merits, given that they have much in common, and in the interests of brevity, I have dealt with them in one document.
3. I have referred throughout to the proposals as Appeal A and Appeal B respectively, in accordance with the way they are listed in the header above.

Main Issues

4. In relation to appeal A, the effect on the character and appearance of the locality, protected species and the living conditions of neighbouring occupiers at Milldean, with regard to noise, disturbance and privacy. In relation to both appeals, whether they would preserve the architectural or historic interest of Slade House, and its setting; a grade II listed building and a heritage asset.

Reasons

Background

5. The appellant suggests that the Council cannot demonstrate a five year housing land supply. It provides a number of appeal decisions in support of that position¹. However, during the course of the appeal the Council has published its 5-year Housing Land Supply figures as at 1 April 2017. That concludes that the Council can demonstrate a 6.3 year housing land supply. Further, the Inspector's Report on the Examination of the Maidstone Borough Local Plan (27 July 2017) and Schedule of Proposed Main Modifications was published during the course of this appeal. That supports the Council's position. That is the most up to date information before me and I do not have a substantive challenge to it.
6. Having regard to the above, I consider on the balance of available evidence that the Council is able to demonstrate a five year supply of deliverable housing sites and thus paragraph 49 of the National Planning Policy Framework (the Framework) is not engaged on that basis.
7. The appeal site is defined as partially within the urban confines (Slade House) and partially within open countryside (the rear of the appeal garden which would accommodate the proposed dwellings) in the Maidstone Borough-Wide Local Plan 2000: Saved (MBWLP). MBWLP Policy ENV28 seeks to prevent development in the open countryside that would harm the character and appearance of the area, and the proposal falls outside any of the exceptions listed in the policy. That policy closely echoes the overriding objective of Policy SP17 of the emerging Maidstone Borough Local Plan (eMLP), a matter that I have taken into account in making my decision. In accordance with paragraph 216 of the Framework, as the eMLP has been through examination and is at a very advanced stage of preparation, to it I accord significant weight.
8. I note that the appeal site was included as a residential allocation H1 (53) (Boughton Lane site) in the eMLP. However, in the Schedule of Proposed Main Modifications to the eMLP, that allocation is deleted as part of MM14. Further, as part of the Minor Modifications proposed to the eMLP, Amendment MC19 reinstates the MBWLP boundary to include the rear of the appeal site, in which the appeal dwellings are proposed, in the open countryside. That matter substantially reduces the weight that I accord that proposed deleted allocation H1 (53) (Boughton Lane site).

Character and Appearance

9. Although part of the garden to Slade House, the rear part of the appeal site on which the proposed dwellings would be sited, is located outside any designated settlement boundary in the MBWLP. MBWLP Policy ENV28 seeks to prevent development in the open countryside that would harm the character and appearance of the area, and the proposal falls outside any of the exceptions listed in the policy.
10. This part of Pickering Street is comprised of large dwellings, with variety in their designs and ages, fronting onto the street. The street has no pavements or lighting, is narrow and has the character of a rural lane. It is sited at the

¹ APP/U2235/W/16/3151289; APP/U2235/W/16/3145575; APP/U2235/W/15/3131945; APP/U2235/W/15/3139288; APP/U2235/W/16/3146765; APP/U2235/W/16/3153903.

edge of Loose, beyond the properties on Leonard Gould Way, which relate to the more intensive development of the settlement beyond. The large rear gardens are mainly free from development and adjoin agricultural land which is open countryside. The locality has a generally spacious, green and semi-rural character and appearance, to which the large rear garden of the appeal site contributes.

11. Sitting some way to the rear of the host dwelling and the line of properties which front onto Pickering Street, the two appeal dwellings and would appear out of place, despite recent development nearby. They would result in development of an open site, which would erode its spacious and semi-rural character and appearance. That the substantial hedges that divide the appeal site from the open land beyond would be retained does not overcome my concern. The proposed access between the host dwelling and its neighbour, Milldean, would diminish the space between the two properties and result in a more urban street frontage than that found in the locality. All in all, being mostly outside the settlement boundary, the appeal proposals would harm the semi-rural character of the locality. Whilst they may result in more pressure for similar development, each application would be judged on its own merits, which reduces the weight that I accord that matter.
12. In coming to the above conclusion, I have taken into account development at Milldean and Leonard Gould Way, which the appellant suggests have set a precedent of infilling and redevelopment at the appeal site. However, I am determining these appeals on the basis of the evidence before me and on their own merits.
13. I conclude that the appeal proposals would fail to accord with MBWLP Policy ENV28. They would also fail to accord with Policies SP17 and DM3 of the eMLP. Those policies, together, aim to protect and enhance the historic and natural environment including the character and appearance of the countryside.

Living Conditions

14. The proposed access, garages and turning spaces would be some distance from the house at Milldean. Further there is a fence and existing planting along the boundary with that garden, which is very large, and some tree planting is proposed in the intervening spaces. Moreover, there is some existing parking at the front of Slade House at present and that access would serve just two additional dwellings. Taking all these factors into consideration, even though the proposed access would run the full length of two sides of that neighbouring property's garden, and an acoustic fence would not be in place, I consider that the noise and disturbance from those additional vehicle movements would be limited. As the proposed dwellings would be some distance from Milldean, there is some proposed planting in the intervening space and that garden is very long, no material overlooking into that property from the upper floors of the proposed dwellings would result.
15. I conclude that the appeal proposals would not adversely affect the living conditions of the occupiers of Milldean, with regard to noise and disturbance and privacy. They would therefore generally accord with eMLP Policy DM1. That policy aims to respect the amenities of occupiers of neighbouring properties. They would also accord with paragraph 17 bullet point 4 of the Framework, which aims to secure a high standard of amenity for all existing and future occupants of land and buildings.

Protected Species

16. The rear part of the appeal site has no development at present and could accommodate some protected species and habitats. In the absence of a Phase 1 Habitat Survey therefore, I cannot be assured that the appeal development would not result in harm to protected species or their habitats. This would be the case even though some new planting is proposed and the substantial hedges are proposed to be retained. As such a survey would identify the presence of protected species or habitats, and the proposed development could result in harm to them, the use of a planning condition would not be appropriate in this case. I have had regard to the appeal decision referred to by the appellant relating to the adjoining site, in which ecological enhancements were conditioned.² However, that appeal relates to an outline scheme and condition 4 to ecological enhancements, which differentiate it from the appeals before me.
17. The appeal proposals would fail to accord with Policy DM3 of the eMLP. That policy aims to generally protect biodiversity. It would also fail to accord with paragraph 109 of the Framework, which aims to conserve and enhance the natural environment.

Listed Building and its Setting

18. Slade House includes a large detached nineteenth century dwelling. It has Kentish Ragstone walls, stone window dressings, quoins and a plinth which, together, give a general impression of order and symmetry. Its later additions, which include a timber porch, contribute to its history and historic fabric. It sits behind a treed frontage enclosed with stone piers and has decorative railings and gates. It has a general appearance of order and symmetry as viewed from the street.
19. The setting of Slade House includes the space around the building, at its front, side and rear. Even though its close relationship with the surrounding open land has been eroded over time, it still has that relationship with the open land to one side and its rear. That provides a reminder of its former use as a farmhouse which was part of a wider farmstead and its farmland. These matters, together, contribute to its spacious semi-rural setting and its significance as a heritage asset. Whilst the listing description does not refer to the setting of the listed building that is partly for identification purposes, is not exhaustive and does not materially affect my assessment of significance.
20. As the porch is a later addition, subject to acceptable detailing, which could be conditioned, I agree that its replacement would be acceptable. I also agree, as the railings at the front require significant work, and the removal of the trees on the front would be likely to result in some damage to them, their refurbishment or replacement in facsimile would not raise concern.
21. However, the proposed development and works would include an access from Pickering Street. As it would be situated to one side of the listed building, it would erode its general appearance of order and symmetry as viewed from the street. This would be compounded by the line of the proposed gates and railings, which would effectively subdivide the frontage. As there would be development where none was previously, the proposed access would diminish

² APP/U2235/W/16/3153903

the listed building's close relationship with the open land at its side. As it would be positioned between Slade House and its neighbour Milldean, the proposed access would diminish the listed building's spacious setting. Even though it would include a landscaped frontage and other planting, as the access road would be a hard surface, there would be limited space for planting sufficient to soften its impact. There is some evidence of an historic access at this point, suggested to serve the former farmstead including the orchards and nut plantations that surrounded it. However, it is not part of the street scene today and such an access would be likely to have been low key and would not have resulted in the same level of harm that I have identified.

22. The appellant suggests a number of benefits to the listed building would result. Whilst it suggests that parking would not take place on the frontage, and I note the proposed garage to its rear, I have no assurance on this matter. As a planning condition to control that use would be unenforceable, I attach limited weight to that matter. Whilst a garage to the rear of the listed building would avoid the requirement for one at the front, I have no assurance that the appellant would wish for one at the front, and therefore this matter weighs neither for nor against the appeal. Whilst I agree that the appeal development and works would help to generate additional funds to support improvements to the listed building, a clear link between the two is not before me and I have no substantive evidence to suggest that the appeal house's optimum viable use as a house is under threat. I am aware that the proposed access arrangements would improve visibility for vehicles using the existing access to Slade House, particularly when egressing. However, Pickering Street is quiet and I have no evidence of a highway safety problem at present. Whilst the trees and planting on the frontage have diminished public views of the listed building and the removals proposed would provide public views, some replacement planting would be required to soften the frontage. In any event any small benefit to the setting of the listed building as a result, replacement of the railings and a new gate and portico, along with the economic and social benefits of two additional dwellings do not outweigh the harm that I have identified.
23. In coming to the above assessment, I have taken account of a recent highway access at Barty House, Berstead that has been brought to my attention. However, that is a different development at a different site and does not replicate the circumstances of this appeal.³
24. Overall, the appeal works and development would fail to preserve the architectural or historic interest of Slade House, and its setting; a grade II listed building and a heritage asset. They would therefore generally fail to accord with eMLP Policy DM1 and DM3. Those emerging policies aim to provide high quality design which responds to areas of heritage value. They would also fail to accord with paragraph 132 of the Framework, which 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.

Public Benefits

25. In accordance with paragraph 132 of the Framework, I consider that the harm to the significance of the listed building, would be less than substantial; a matter to which I attach considerable importance and weight, mindful of my

³ Council Ref MA/15/504667 and MA/14/506738

statutory duties⁴. However, in relation to each of the appeals, no public benefits, as identified in paragraph 134 of the Framework, are before me sufficient to outweigh that harm. In coming to this judgement, I have taken account of the benefits previously acknowledged, along with the provision of two dwellings to modern standards near to some local facilities and services. That would make a small contribution to the Council's housing land supply. However, that benefit along with others cited, are not sufficient to outweigh my concerns.

Other Matters

26. The Council, in section 4 of its statement of case, refers to an appeal decision at the appeal site (Council Ref 74/0666). That appeal was dismissed. Neither of the main parties has provided a copy of that decision. I note that decision is very old and was made within a different policy landscape. Whilst I cannot be sure of its relevance to this case, I consider that for the above reasons, and as that case was dismissed, it would be likely to have little bearing on the appeals before me.
27. The appellant considers that the windows on the rear of the upper floors of properties in Leonard Gould Way have reduced the privacy within the rear garden of the host dwelling and that the electricity sub-station located close to the boundary with the host dwelling results in some noise pollution. It also considers that previous Council decisions generally have negatively impacted on the living conditions of the occupiers of Slade House and its setting as a listed building. However, even if this were the case, the appeal proposals would result in more harm and those matters do not provide the justification for the appeal development and works.

Conclusion

28. For the above reasons, and taking all other matters raised into consideration, I conclude that both appeals should be dismissed and the planning and listed building consent applications refused.

R Barrett

INSPECTOR

⁴ section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990