
Appeal Decision

Site visit made on 4 June 2019

by A Napier BA(Hons) MRTPI MIEMA CEnv

an Inspector appointed by the Secretary of State

Decision date: 25 July 2019

Appeal Ref: APP/U2235/W/18/3214180

Barham Court, Tonbridge Road, Teston ME18 5BZ

- 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 Ms Sonia Whitmore against the decision of Maidstone Borough Council.
 - The application Ref 18/500485/FULL, dated 24 January 2018, was refused by notice dated 16 April 2018.
 - The development proposed is described as a 'boundary fence'.
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Decision

1. The appeal is dismissed.

Preliminary Matter

2. From my visit to the site, it is clear that a fence has been erected along the line of that shown on the plans and drawings submitted in support of the development. However, although the planning application form indicates that the development has been completed, the details of the fence as erected, in particular its appearance and the materials used, do not match those submitted in support of the application.
3. Further details were provided in support of the appeal. However, from the information available to me, these details were not submitted to the Council as part of the planning application process and have not been the subject of publicity or consultation. Given that these details differ materially from those originally submitted, it is not appropriate for me to consider them as part of this appeal. To avoid potential prejudice to the interests of others, I therefore intend to consider the appeal on the basis of the details that were before the Council when it determined the application.

Main Issue

4. Barham Court is a grade II* listed building, which is adjacent to the grade II listed Barham Mews and within the Teston Conservation Area. These are designated heritage assets and I am mindful of my statutory duties in these regards.
5. The main issue in this appeal is whether or not the proposal would: preserve the listed appeal building, any features of special architectural or historic interest that it possesses, or its setting, or the setting of other listed buildings nearby; and preserve or enhance the character or appearance of the Conservation Area.

Reasons

6. The appeal property is a large country house, situated within its own grounds, in a predominantly rural area. The Conservation Area covers a large area of woodland, the parkland around the appeal property and the older core of the village, including the church. From the information available to me, I consider that the importance of the Conservation Area is mainly drawn from the age and design of the buildings it contains, and the spaces, trees and largely undeveloped landscape within it, and their relationship to Barham Court.
7. The appeal building is a substantial property, which the listing description indicates was remodelled in the late 18th century and largely rebuilt in the 1930s. The adjacent former stables also date from the late 18th century and were converted to dwellings in the 1980s. From the evidence available to me, including the listing descriptions, I consider that the significance of these buildings is largely derived from their age, form, fabric, architectural details and their setting, including their relationship to each other and the open parkland landscape between the buildings and the river valley to the south.
8. The details provided indicate that the appeal building was listed in 1952, with the adjacent mews building listed in its own right in 1987. The parkland setting to the south is largely undeveloped and, at the time of my visit, some of the wider area was being grazed by horses. This land was subdivided by post and wire fencing, separating the distinct parcels of grazing land from each other and from the remaining area of open parkland, closer to the appeal building.
9. At one end, the proposed fence would be adjacent to an existing boundary wall on the rear terrace of the appeal property and, at the other, it would join an existing fence along the southern boundary of the appeal site. The design of the fencing proposed is relatively modest. Nonetheless, due to the proposed use of unsympathetic materials and the close proximity of the fence to the listed buildings, I consider that its visual impact would be materially harmful and detrimental to the appearance of these buildings.
10. Furthermore, notwithstanding its relatively modest scale, the siting of the fence and the resulting subdivision of the landscaped area of open space to the south of the buildings would also unacceptably affect their historic character. The fence would materially disrupt and dissect the otherwise largely open vista and significantly detract from the parkland setting of Barham Court. For similar reasons, it would be detrimental to the character and appearance of the Conservation Area.
11. In part, the fence would be screened by trees and other vegetation, including when viewed from close to the appeal building. However, I am mindful that these are natural features and, as such, the screening provided would be likely to change over time. In any event, the existence of screening does not adequately address the harm identified above.
12. The details provided do not clarify when the fencing within the wider parkland landscape was erected, or whether it received, or needed, permission. Nonetheless, due to its siting and relationship to the listed buildings, the impact of the appeal proposal would be materially different to this other fencing. Furthermore, the existence of other fencing within the wider

landscape setting of these heritage assets does not represent a compelling reason to allow a proposal that would cause harm.

13. Consequently, I conclude that the proposal would result in harm to the significance of the heritage assets. Whilst the proposal would preserve the listed appeal building and its special interest features, it would not preserve its setting, or the setting of the adjacent listed Barham Mews, and would not preserve the character and appearance of the Conservation Area. The proposal would be contrary to the *Maidstone Borough Local Plan 2017* Policies SP18, DM1, DM4 and DM30, where they collectively seek to protect local character and appearance, including in relation to the historic environment.
14. I attach great importance and weight to the harm to the significance of the heritage assets identified above. However, the proposal would not lead to the loss of the listed building and would affect a relatively small area of land within a much larger Conservation Area. As such, I find the harm, whilst material, would be less than substantial. Paragraph 196 of the National Planning Policy Framework 2019 (NPPF) requires that, in the case of designated heritage assets, the harm should be weighed against the public benefits of the proposal.
15. The appeal property is currently in use as offices and is also used for corporate and other events, including weddings and other functions. The proposed fence would help to ensure that guests did not stray beyond the environs of Barham Court, which would have potential benefits for their safety and that of animals nearby. It is also indicated that the fence would meet the requirements of a condition applied to a previous permission. However, having regard to the character of the property and the relationship with the adjoining land, from the details available to me, I am not satisfied that it has been demonstrated that other, potentially less harmful, means of identifying the boundary of the site would not be feasible or viable.
16. It has also been suggested that the proposal would improve the security of the appeal property and limit risks associated with vermin control. However, very little supporting information has been provided in this regard and, taking into account the scale of the proposal, I consider that these benefits would be very limited. There is also nothing before me, nor do I consider, that the use of the appeal property would be at risk in the absence of the proposal. Consequently, considered overall, I find that the public benefits of the proposal would be relatively modest. Nonetheless, given the general encouragement in the NPPF for such development, I give them moderate weight.
17. Paragraph 193 of the NPPF advises that great weight should be given to the conservation of a designated heritage asset in considering the impact of a proposal on its significance. Paragraphs 184 and 194 state that heritage assets are an irreplaceable resource and any harm to, or loss of, the significance of a designated heritage asset (from its alteration or destruction, or from development within its setting) should require clear and convincing justification. In addition, paragraph 192 refers to the desirability of new development making a positive contribution to local character and distinctiveness. For the above reasons, I consider that the development would not make such a contribution.
18. For these reasons, I find that the benefits of the proposal would not be sufficient to outweigh the harm identified to the significance of the heritage

assets and the proposal would not meet the aims of paragraph 184 of the NPPF, to conserve heritage assets in a manner appropriate to their significance.

Other matters

19. The fence would be sited within an area covered by a Tree Preservation Order. There is nothing before me to suggest, nor do I consider, that the siting of the fence would be harmful to these protected trees. However, the absence of harm in this regard does not lead me to alter my findings above.
20. I have not formally considered the revised fencing details as part of this appeal, for the reasons given above. Nonetheless, had I been in a position to do so, it would not have altered my overall conclusions above .
21. The appellant suggests that, due to the distance from the main building and the height of the fence, a significant length of the proposed fence would not require planning permission. Whether or not permission is required for the proposal is not a matter before me as part of this appeal, as other mechanisms exist to determine this issue. I have therefore considered the appeal on its merits and in light of all representations made.
22. Local concerns have also been raised in relation to land ownership. However, given my findings above, it is not necessary for me to consider this matter further.

Conclusion

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

A Napier

INSPECTOR