



Appeal Decisions

Site visit made on 23 July 2019

by S J Papworth DipArch(Glos) RIBA

an Inspector appointed by the Secretary of State

Decision date: 26 July 2019

Appeal A: APP/J2210/W/18/3216119 13 Orchard Street, Canterbury CT2 8AP

- 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 C Hill against the decision of Canterbury City Council.
 - The application Ref 18/00233, dated 30 January 2018, was refused by the Council by notice dated 6 July 2018.
 - The development proposed is change of use of No.13 from dwelling to guest house accommodation to be used in conjunction with the existing guest house (at 11-12 Orchard Street) together with the removal of a single-storey rear extension (modern addition) and its replacement with a two-storey rear extension together with external alterations to remove a modern sash window and install a new window and door (to side elevation), the repair and refurbishment of joinery to the front elevation and internal alterations to allow for the intended end use.
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Appeal B: APP/J2210/Y/18/3216126 13 Orchard Street, Canterbury CT2 8AP

- 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 Ms C Hill against the decision of Canterbury City Council.
 - The application Ref 18/00234, dated 30 January 2018, was refused by the Council by notice dated 6 July 2018.
 - The works proposed are change of use of No.13 from dwelling to guest house accommodation to be used in conjunction with the existing guest house (at 11-12 Orchard Street) together with the removal of a single-storey rear extension (modern addition) and its replacement with a two-storey rear extension together with external alterations to remove a modern sash window and install a new window and door (to side elevation), the repair and refurbishment of joinery to the front elevation and internal alterations to allow for the intended end use.
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Decisions

1. I dismiss both appeals.

Main Issue

2. The building is listed Grade II and is within the Canterbury Conservation Area. In both appeals the main issue is the effect of the proposals on the architectural or historic significance of the listed building.

Preliminary Matters

3. The appellant's list of drawings that the Council considered includes drawings 17/13/10D and 11C as being the latest iterations of the proposed ground and

first floor plans. The appellant's Appendix 3 is described as '*drawings 17/13/10C and 17/13/11C (Planning Permission and Listed Building Consent CA/18/00777 and CA/18/00778)*' these being the reference numbers of permission and consent granted on 25 July 2018, and those drawings were listed in Condition 2) on each approval Notice. Whilst drawing 10D has clearly been updated to show the layout for which approval is now sought at appeal, drawing 11C re-uses the same amendment letter as was the subject of the previous, and extant, approvals. The confusion is not assisted by the submission of a drawing numbered 10C that shows the proposed staircase in the rear projection that does not feature on the approved drawing 10C in Appendix 3.

4. At the time of the site inspection, certain works were being carried out, but the layout of sanitary accommodation in the basement and that serving the front first-floor bedroom in particular did not correspond to either the existing layout on drawings 01A and 02, the approved layout from the July 2018 consent, or the layout now put forward for approval.
5. For the avoidance of doubt, the layout considered in these Decisions is as shown on drawing 10D and what will be referred to as drawing 11D; the pre-existing layout will be considered as being as shown on drawings 01A and 02 aided by the photographs in the Heritage Statement; whilst the approved layout will be taken as being as the drawings in Appendix 3.

Reasons

6. Historic Environment Policies HE1, HE4, HE6 and HE8 of the Canterbury District Local Plan 2017 contain general policies for the protection of heritage assets, and particular requirements for listed buildings, conservation areas and heritage assets in conservation areas.
7. 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 building or its setting or any features of special architectural or historic interest which it possesses. Section 72(1) of the same Act requires special attention to be paid to the desirability of preserving or enhancing the character or appearance of the conservation area.
8. Paragraph 193 of the 2019 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.
9. The extant planning permission and listed building consent established the principle of the change of use and the demolition of the single-storey rear addition, as well as certain internal changes that were the subject of the consent only. Whilst the current appeal scheme proposes a 2-storey rear addition, the permission and consent were for a single storey extension in that location. The formation of the opening to the rest of the business at numbers 11 and 12 was given consent as was the removal of a chimney and works to make the basement habitable.
10. The appeal premises are a small house, part of a terrace and listed as part of a group. There have been much earlier works to the adjoining 11 and 12 to reface the front elevations and link them visually as part of the former public

house use, but the front elevation of number 13 remains like other two-storey houses in the road. The Heritage Statement refers to the internal layout as being largely as originally built except at the rear addition and what was described as a conservatory. That state of affairs does need to be re-considered in light of the works permitted in 2018. The plan form would remain legible after those works, and the formation of the link to number 12, which has been carried out, would not undermine that plan form, being a small opening necessary to allow the change of use to be physically part of the business operating in numbers 11 and 12.

11. Having mind to the pre-existing modern bathroom partition in the middle first-floor room, the architectural and historic significance of the building resides very much in the front elevation as part of a group and its contribution to townscape and the character and appearance of the conservation area, but with historic significance in the plan form of small rooms accessed by a single, central staircase. The works permitted in 2018 would retain this cellular arrangement, retaining room-plans whilst making better use of the basement and the rear addition, and replacing the conservatory with habitable space. As would be expected by the Council's decision to grant permission and consent, the proposals accord with legislation and policy.
12. Starting with the basement, the works now proposed and shown on drawing 10D appear identical to those approved, albeit not as installed and seen at the site inspection where the shower room is split either side of a window and a step has been formed across the depth of the room. The basement works applied for, as shown on drawing 10D, are acceptable.
13. On the ground floor the internal works of forming a door under the stairs features in the approved plans and the re-positioning of the door from the middle room to the rear addition is a minor change that would not cause harm to significance. However, the formation of a new stair in the rear addition would risk confusing the historic significance of the simple, single-stair house, although the level of harm caused should be moderated somewhat by the later date of the rear addition, but this later addition is part of the historic significance of the house.
14. On the first floor the proposal is to form an *en-suite* shower room extending from the alcove in the front room which would disrupt the plan form, and to form a separate room with *en-suite* in the middle room, by reducing the size of the existing bathroom, which would be an improvement over the pre-existing arrangement as well as over that shown on the approved drawing 11C. The rear addition, together with the proposed further 2-storey extension would house another guest room with *en-suite*, being accessed by the new stair.
15. The ability to form this new room in the first-floor rear relies on the 2-storey extension being built, as there would be insufficient space with the approved single-storey scheme to house the stairs, a bedroom and an *en-suite*. The Council make clear that they have no objection to the 2-storey extension and in listed building and conservation area terms, that view is concurred with.
16. In the absence of the 2-storey extension, the approved scheme retains the existing bathroom in the middle room, which appears to be shared between the front and rear guest rooms, and whether this is as a suite of 2 bedrooms or capable of being let as 2 separate rooms is immaterial.

17. The proposals would therefore involve the installation, drainage and servicing of 3 new *en-suite* facilities albeit one in a similar location to that presently in place and already approved. The Council express concern over pipe-runs and resulting disruption to finishes and room plans. However, service pipes for domestic hot and cold water as well as central heating can be easily accommodated, and soil pipes are shown running within the floor void to stacks in the rear addition, which would not cause harm. Conditions could seek details to ensure the quality of the installation.
18. Nevertheless, the works to the first floor in forming new cellular *en-suite* rooms and to gain access by way of a new stair on both the ground and first floors would cause harm to the architectural and historic significance of the building. The level of harm would be 'less than substantial', a differentiation required between paragraphs 195 and 196 of the Framework. In this case the latter applies and this states that this harm should be weighed against the public benefits of the proposal, including securing its optimum viable use.
19. Weight does attach to the grant of permission and consent in 2018, whether as a 'fallback' because the appellant could implement it in full, but more truly as an indication that some acceptable work can be carried out to the property in order to fit it for the change of use. However, the ability to extend the business into number 13 and provide a good standard of guest environment has been demonstrated by the layout previously approved and the benefits of the layout now proposed over the approved scheme, of a single additional guest room and the elimination of the shared bathroom does not outweigh the harm.
20. The appellant's progress with the refurbishment and fitting out of number 13, notwithstanding to a different layout to that approved, adds weight to the view that the viability of the change of use does not rely on the harmful works now proposed; it being for the Council to consider the works now actually being carried out on their merits.

Other Considerations and Conclusions

21. As stated, the Council do not object to the 2-storey extension instead of the single storey lean-to previously approved, and whilst the Officer's Report acknowledges objections from third parties, it concludes with regard to the effect on the living conditions of the neighbouring occupier at number 14 that no harm would be caused. That occupier has however reiterated an objection at appeal and invited an inspection of the outlook from the rear upstairs bedroom, the rear-facing kitchen and the rear garden.
22. It is the fact that the kitchen addition to number 14 extends further along the flank elevation of number 13 than indicated on drawings 05 and 14B, so that the extension at 2 stories would represent a greater percentage of additional flank elevation compared with the present situation. It is also a fact that the addition at the full 2-storeys would remove a pleasant view of the Cathedral from the rear bedroom. However, there is no right to the protection of a view in the planning regime, and the difference in the sense of enclosure between the consented single-storey addition and that now proposed would be limited and not harmful as a planning consideration, having regard to the open outlook to the rear and south, that orientation also limiting any harmful loss of light or sunlight.

23. The situation is therefore that there are elements of the appeal proposals that are acceptable since parts are already approved under the 2018 proposals, and while the 2-storey addition does not feature in those approvals, it is agreed to be acceptable as a planning application. However, there are external changes to openings that should be considered under the planning regime which concern unacceptable internal works under the listed building regime.
24. Whether to issue a split Decision is a matter for the Inspector and in view of the difficulty of clearly separating acceptable items of work and development from unacceptable items, and taking account of the ambiguities over what was being implemented at the time of the site inspection, the conclusion is that for the reasons given above, both appeals should be dismissed as being contrary to the Development Plan and national policies previously cited that seek the preservation of heritage assets, and the failure to accord with the statutory tests in the 1990 Act. The benefits to tourism over the consented scheme do not outweigh those failings.

S J Papworth

INSPECTOR