
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: 5 August 2019

Appeal A: APP/J2210/W/19/3222823

48a Island Wall, Whitstable CT5 1EW

- 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 & Mrs Peter Herbert against the decision of Canterbury City Council.
 - The application Ref 18/01854, dated 5 September 2018, was refused by the Council by notice dated 27 November 2018.
 - The development proposed is single storey side and rear extension, incorporating minor demolition to facilitate the extension.
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Appeal B: APP/J2210/Y/19/3222821

48a Island Wall, Whitstable CT5 1EW

- 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 & Mrs Peter Herbert against the decision of Canterbury City Council.
 - The application Ref 18/01855, dated 5 September 2018, was refused by the Council by notice dated 27 November 2018.
 - The works proposed are single storey side and rear extension, incorporating minor demolition to facilitate the extension.
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Decision Appeal A

1. I allow the appeal and grant planning permission for a single storey side and rear extension, incorporating minor demolition to facilitate the extension at 48a Island Wall, Whitstable CT5 1EW in accordance with the terms of the application, Ref 18/01854, dated 5 September 2018 subject to conditions 1) to 3) on the attached schedule.

Decision Appeal B

2. I allow the appeal and grant listed building consent for a single storey side and rear extension, incorporating minor demolition to facilitate the extension at 48a Island Wall, Whitstable CT5 1EW in accordance with the terms of the application, Ref 18/01855, dated 5 September 2018 and drawings 1079-04/110, 111, 210 and 211 and subject to conditions 1) to 4) on the attached schedule.

Main Issue

3. The building is listed Grade II and is within the Whitstable Town Conservation Area. In both appeals the main issue is the effect of the proposal on the architectural or historic significance of the listed building and its setting.

Reasons

4. Policy DBE3 of the Canterbury District Local Plan 2017 sets out the principle of design, seeking among other things, high quality design solutions appropriate to the site. Policy DBE6 is specific to alterations and extensions which are to be compatible with the character of the original building in terms of design, layout, size, bulk, mass, height, choice of materials and position. Historic Environment Policies HE1, HE4, HE5 and HE6 contain general policies for the protection of heritage assets, and particular requirements for listed buildings and conservation areas.
5. 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.
6. Paragraph 124 of the 2019 National Planning Policy Framework states that good design is a key aspect of sustainable development, creates better places in which to live and work and helps make development acceptable to communities. Paragraph 193 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.
7. Whilst never implemented and now lapsed, the grant of permission and consent in November 2011 for '*the erection of as conservatory to rear of building*' is a material consideration of significant weight (Refs: CA/11/01410 & CA/11/01434). That approval pre-dated the publication of the National Planning Policy Framework in March 2012, but the then extant guidance in Planning Policy Statement 5, '*Planning for the Historic Environment*' had introduced the concept of 2 levels of harm and the need for public benefits, and provided robust policies for judging, and if necessary, rejecting proposals that caused harm to designated heritage assets. The statutory framework in the Planning (Listed Buildings and Conservation Areas) Act 1990 was in place then and remains unchanged.
8. The Development Plan has been updated since that grant of permission, but Section 38(6) of the Planning and Compulsory Purchase Act 2004 and the primacy of the Development Plan do not apply to applications and appeals made under the Planning (Listed Buildings and Conservation Areas) Act 1990, and so the considerations that would have informed the decision to grant at least the listed building consent have not changed significantly.
9. That scheme was for a traditional hardwood framed conservatory on a brick plinth, with gable ends, a central side-to-side ridgeline and a valley gutter against the wall of the dwelling. The drawings make clear the intention to form a new opening in place of a ground floor window and the brick panel below it, to gain access, so that this aspect of the current scheme was considered acceptable then. That scheme did not appear to address the curved boundary wall with 48b, relying of the gable end there being inside the boundary line with a small gap left open.
10. Returning to the current appeal proposals, there has been some discussion over whether this is the front or the back of the property. Certainly the road

elevation to Island Wall displays traditional elements of a front elevation, a central door and symmetrical windows, albeit now dispersed over 2 separate dwellings, but the sea-side elevation also displays symmetry about a central archway and is prominent in public views from the beach and walkway besides the flood wall, that prominence increased by the routes towards the property along Neptune Gap from the public house and the beach to the south-west.

11. That public view within the conservation area is at a greater distance than on Island Wall and encompasses the more recent development at The Vines which to the beach-side sets a forward position which is maintained as an irregular line for a considerable distance north-east. Particularly prominent in many of these views is the large conservatory at the adjoining number 48b, partly due to its plan form but particularly its height up the gable end. The strong symmetry that is displayed to the roadside elevation is weakened by the presence of that conservatory and by the location and prominence of the curved boundary wall between the 2 parts of the building.
12. Whether front or back, the architectural and historic significance of the listed building is evident to a considerable degree on both elevations and the double pitched roof form seen in approaching views adds to the positive contribution that this building makes to the character and appearance of the conservation area. In addition, the preservation of listed buildings does not rely on a public view, but the internal finishes of the dwelling appear to have been altered over time, and limited significance attaches to the fabric of the wall below the window or the window frame and sash itself, a finding that is in line with that of the Council when granting consent in 2011.
13. The proposed structure to the sea elevation would be frameless glass, resulting in a transparent, lightweight appearance and one that correctly addresses the curved boundary wall, all features that place this proposal at a significant advantage over that allowed in 2011. The appellant has provided examples of such glazed structures at various scales, and the low-set, small intervention here would be an appropriate addition to the listed building, imparting an elegance that would stand alone as a structure of interest and would not adversely affect the architectural or historic interest of the listed building or the townscape, character and appearance of the conservation area.
14. The side extension is not referred to in the Reasons for Refusal and does not appear to be contentious so far as the Council are concerned, although permission and consent have been withheld despite being functionally and structurally separate. There is no reason to withhold approval now as the addition would preserve the significance of the listed building and the character and appearance of the conservation area.
15. Neither Policy DBE3 nor Policy DBE6 preclude modern interventions and to be appropriate to the site and compatible with the character of the original building should not be taken to require a copy or pastiche. The supporting text at paragraph 8.67 warns against the use of standardised designs of conservatories which fail to consider the architectural context and local distinctiveness. The appeal proposal is acceptable in those respects.
16. To conclude, both parts of the proposal would satisfy the requirements of the 1990 Act as well as the Development Plan policies previously cited together with the aims of the Framework on good design and the protection of designated heritage assets. Whilst there is no need to consider the balance of

public benefits since no harm has been identified, the public benefit of high-quality contemporary design in a highly visible location adds weight to the findings.

Conditions

17. The Council suggested only 2 conditions for the planning appeal, one being the standard commencement condition and the second naming the 'as proposed' drawings in order to secure the proper development of the area. This second condition is required in the planning permission only since the provisions for greater flexibility in planning permissions does not apply to listed building consents, it being sufficient to list the drawings in the formal consent.
18. Two further conditions were requested for the consent to ensure that the materials used in the side extension match those previously used, and to prevent any finishes being applied to the external brick wall that would become part of an internal space, in order to retain that evidence and to take full advantage of the transparent nature of the proposals. Both of these conditions are necessary and reasonable.
19. Whilst the nature of the proposed rear glazed structure is clear enough in the drawings to be able to conclude on the appeals, the quality of the development would depend on the detail, and it is reasonable in addition to attach conditions seeking larger scale details of junctions, weathering and any structural connections as appropriate. The transparent properties that carry weight in these Decisions would expose such details to view and for those reasons also, the nature of the glass should be controlled.
20. The need for such a condition has not been canvassed with the appellant but it would be essential in order to allow the proposals in view of the weight attached to the intentions shown on the drawings and referred to in the written submissions. To avoid the need for a pre-commencement condition, the wording should require the details to be submitted and approved prior to the work progressing beyond the re-profiling of the patio and raised planting.

Conclusions

21. The extensions would not adversely affect the architectural or historic significance of the listed building and would preserve the character and appearance of the Whitstable Town Conservation Area, in line with local, national and statutory requirements. It would be an elegant and appropriate way of providing additional accommodation to better suit the needs of occupiers whether holiday makers or full time, and would enhance the appearance of the building as a display of high quality design. For the reasons given above it is concluded that both appeals should be allowed.

S J Papworth

INSPECTOR

SCHEDULE OF CONDITIONS APPEAL A PLANNING PERMISSION

- 1) The development hereby permitted shall be begun before the expiration of three years from the date of this permission.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: 1079-04/110, 111, 210 and 211.
- 3) The development of the rear extension hereby approved shall not progress beyond the re-profiling of the patio and planted area until full details of the glazed structure, the method of sealing and weathering, any structural metalwork and connections together with details of the glass colour and finish, and the details of the lead covered connection to the curved boundary wall, have been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out only in accordance with the approval given.

SCHEDULE OF CONDITIONS APPEAL B LISTED BUILDING CONSENT

- 1) The works to which this consent relates shall be begun not later than the expiration date of three years beginning with the date on which this permission is granted.
- 2) All new external materials and external finishes to be used in the erection of the single-storey side extension hereby approved shall be of the same, colour, finish and texture as those on the existing side extension.
- 3) The external wall located within the rear glazed extension hereby approved shall not be rendered, plastered, painted or otherwise finished but shall remain as the existing brick finish.
- 4) The works of the rear glazed extension hereby approved shall not progress beyond the re-profiling of the patio and planted area until full details of the glazed structure, the method of sealing and weathering, any structural metalwork and connections together with details of the glass colour and finish, and the details of the lead covered connection to the curved boundary wall, have been submitted to and approved in writing by the Local Planning Authority. The works shall be carried out only in accordance with the approval given.