
Appeal Decisions

Site visit made on 29 October 2019

by S J Papworth DipArch(Glos) RIBA

an Inspector appointed by the Secretary of State

Decision date: 11 November 2019

Appeal A: APP/Y9507/W/19/3231521

Appeal B: APP/Y9507/Y/19/3231524

Appeal C: APP/Y9507/W/19/3231529

Appeal D: APP/Y9507/Y/19/3231534

The Bull, 2 High Street, Ditchling, East Sussex BN6 8TA

- Appeals A and C are made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - Appeals B and D are made under section 20 of the Planning (Listed Buildings and Conservation Areas) Act 1990 against a refusal to grant listed building consent.
 - The appeals are made by Mr D Worrall against the decisions of South Downs National Park Authority.
 - In Appeal A the application Ref SDNP/18/06294/FUL, dated 15 November 2018, was refused by notice dated 18 March 2019 and the development proposed is store to rear of pub, timber construction on brick plinth, shiplap boarding, painted to match building.
 - In Appeal B the application Ref SDNP/18/06291/LIS, dated 15 November 2018, was refused by notice dated 18 March 2019 and the works proposed are the same as in Appeal A.
 - In Appeal C the application Ref SDNP/18/06288/FUL, dated 15 November 2018, was refused by notice dated 18 March 2019 and the development proposed is seating area to rear of number 1 High Street, 3No tables with benches, 8No plant pots, gravel surfaces to ground.
 - In Appeal D the application Ref SDNP/18/06287/LIS, dated 15 November 2018, was refused by notice dated 19 March 2019 and the works proposed are the same as in Appeal C.
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Decisions

1. I dismiss all 4 appeals.

Main Issues

2. In each appeal there is a main issue of the effect of the proposal on the architectural or historic significance of the Grade II Listed Building and the character and appearance of the Ditchling Conservation Area.
3. In Appeal C only there is a further main issue of the effect of use of the seating area on the living conditions of adjoining residential occupiers.

Reasons

General to all 4 Appeals

4. The South Downs Local Plan was adopted in July 2019 and superseded those policies of the Lewes District Local Plan and the Lewes District Joint Core Strategy cited in the Reasons for Refusal. The relevant Local Plan Policies are

SD5 on design, including the effect on surrounding uses and amenity, SD13 on listed buildings and SD15 on 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. 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.
6. From the planning history, permission and consent were granted for an extension to the rear of the property (Refs SDNP/14/05431/FUL and 05432/LIS) and that work, which is seen as a contemporary infill in glass and with a flat roof, appeared complete and in use at the time of the site inspection. As would be expected of the decision to permit such work to a listed building within a conservation area, the extension appears attractive and its form and use of materials do not vie with the appearance of the truly historic building nor undermine its significance.
7. The appeals concern 2 different proposals, the store and the seating area, and they are unconnected, occupying areas on either side of the modern infill building, the store being in the rear car park to the north and the seating to what is described as part of a former car park to the south, abutting Lewes Road. Both elements had been carried out and were available for use at the time of the site inspection.

Appeals A and B, the Store

8. The store is timber framed and clad in sawn shiplap boarding, with a nominally flat roof, having a central door on the east facing wall matching the finish of the wall either side. A row of white plastic vents are fitted to the side and the boarding has been painted to match the colour of the masonry building to which it adjoins. Representation in favour of the development states that the store hides goods and deliveries.
9. From the information supplied by both main parties, it appears that an open-topped enclosure (or store) for bins was approved under 3 references; an early scheme SDNP/12/00617/FUL; as part of the extant and occupied infill development SDNP/14/05431/FUL; and as an alteration SDNP/17/05381/FUL. The appellant has supplied parts of the drawings from those permissions as an east elevation together with the corresponding appeal drawing. The Authority have provided an analysis of sizes, and in particular, the height is stated to be significantly greater as now proposed.
10. It can be concluded that some form of lightweight structure may be erected in this location, as the 2014 application has been commenced and any parts of which remain uncompleted could be regarded as being extant. It is unlikely from the information supplied that the 2012 application for what appears to be a higher enclosure can now be carried out, as the later approvals for the contemporary infill appear to occupy the same or similar footprint to the south of the store location, preventing the 'mixing and matching' of parts of the

various approvals. The analysis that led to the various approvals would have looked at the design 'as a whole' and it is not appropriate to draw strong conclusions as to the suitability of elements in isolation.

11. The contemporary infill has been carried out to a high standard of design and sits well against and within the historic environment, but the store as erected has introduced a poor standard of design and has the appearance of a solid substantial building that does not relate well to either the historic building or the modern addition. As a result, it erodes the visual qualities of both parts of the premises. It is the case that the permitted open-topped bin store would have some effect on the composition but being lower and more obviously an ancillary and utilitarian structure, would not have given the same appearance of permanence and hence permanent harm.
12. The Authority also question the provisions made for bin storage in the absence of the previously approved enclosure and its apparent use as general or kitchen storage. No information has been provided to give comfort on this matter. The conclusion is that the store causes visual harm and harm to the significance of the historic building, harming also the quality of the modern addition. The risk of bins being stored otherwise than as approved as part of the overall design and layout of the 2014 and 2017 application development adds weight to the likely harm that occurs.
13. These failings are apparent, albeit not so obviously, from a public place within the conservation area, at the entry onto High Street and the use of the restaurant by members of the public mean that the failings are not only seen by private owners of the subject property.
14. The store as erected fails to reach the standard of design sought in Policy SD5 as part of the composition of old and new, and does not preserve the listed building or the character and appearance of the conservation area as required in Policies SD13 and SD15. The statutory tests in the 1990 Act would not be met and the requirements of the Framework on designated heritage assets would not be accorded with. On balance, the 'less than substantial' harm to designated heritage assets would not be outweighed by public benefits as sought in paragraph 196 of the Framework, and that includes the storage of goods and deliveries out of sight, and Appeals A and B should be dismissed.

Appeal C and D, the Seating Area

15. The seating area, raised hard surface, seats tables and plants in containers, were all in position at the time of the site inspection. The Authority make clear that the area has permission for use as part of the car-parking provision of the public house and cite various permissions and their attached conditions ensuring that the parking was to be provided and '*the areas shall thereafter be retained for that use and shall not be used other than for the parking of motor vehicles*'.
16. The use of the area for car parking as permitted would allow the rear of the listed number 1 Lewes Road and the rear parts of the listed appeal building to be appreciated, albeit at times the space would be occupied by cars. That use would however be intermittent whereas the use presently in place and the seating, decking and planting all serve to obscure parts of the buildings. The arrangement in place at the time of the site inspection appeared poorly laid out

- and intrusive in the street-scene, causing harm to the designated heritage assets of the listed building and the conservation area.
17. Representation has been made as to possible physical damage to the listed number 1 Lewes Road which abuts the site of the seating to the west boundary, through water ingress, but were all else acceptable, that could be addressed in a condition seeking details and some form of positive drainage if a problem was identified.
 18. The Reasons for Refusal identify a risk of anti-social behaviour and crime, through the seating use, and representation has been made as to the proximity of a residential use at number 1 with smoking and noise likely to cause harm to the amenity of the occupiers. The Authority confirm that this residential use resulted from a permission and consent granted in 2002 (Ref LW/02/1802 and LW/02/1801).
 19. There would be a difference in the pattern of use between a car park and seating, the former more likely to result in activity at intervals, as people come or go, with the venue described as being 'primarily food orientated' the stay of those arriving by car could be relatively lengthy. The use as a seating area could involve it being occupied by groups throughout the opening hours and, in good weather, that could be late into the evening. The possibility of this being the place where smokers would congregate cannot be discounted.
 20. What is defined as 'anti-social behaviour' is a matter for conjecture and the link to 'crime' appears tenuous, but the likelihood is that people enjoying a social occasion, including groups, could cause noise and disturbance to a greater degree than that caused by parking associated with the venue. It is claimed that there would be other parts of the site that might suit outdoor seating and the Authority do not claim the loss of parking as a failing, although that is a matter raised by others.
 21. To conclude, the seating harms the architectural significance of the listed building and risks noise and disturbance from its close proximity to a residential use, the likelihood of harm being greater than that associated with the lawful use as parking. The harm to designated heritage assets is 'less than substantial' but is not outweighed by public benefits and conditions are not capable of addressing the risk of noise and disturbance. The seating is contrary to policies that seek good design and layout, the preservation of heritage assets, and the protection of residential amenity.

Conclusions

22. The appeal proposals cause unjustified harm to designated heritage assets and the seating risks harming residential amenity in addition. Development Plan and national policies as well as statutory requirements are not satisfied and for the reasons given above it is concluded that all 4 appeals should be dismissed.

S J Papworth

INSPECTOR