
Appeal Decision

Site visit made on 12 November 2019

by S J Papworth DipArch(Glos) RIBA

an Inspector appointed by the Secretary of State

Decision date: 20 November 2019

Appeal Ref: APP/Z1510/W/19/3234506

Cooks Green, Cooks Green Lane, Lamarsh CO8 5DY

- 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 Sebastian Hayes against the decision of Braintree District Council.
 - The application Ref 19/00280/HH, dated 16 February 2019, was refused by notice dated 14 May 2019.
 - The development proposed is conversion of existing detached garage to annexe and erection of new adjoining single garage.
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Decision

1. I dismiss the appeal.

Main Issue

2. This is the effect of the proposal on the setting of the listed building and the character and appearance of the area.

Preliminary Matters

3. The appellant has detailed the history of the application under the heading 'Procedural Matters' citing delays in obtaining pre-application advice, which was therefore not pursued; a delay in the Council's determination, which could have been appealed against on the expiry of the time allowed; and an apparent change of mind by the Council's case officer, stating that permission would be granted then determining that permission should be withheld. This latter is not a verbal contract and can only be taken as an indication, as the issue of the Refusal Notice is the determining fact, and it is that refusal that has been appealed. If the appellant is aggrieved by these matters, there are other opportunities to pursue that, and the appeal is to be determined on its merits taking account of policy and statutory provisions.

Reasons

4. Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires special regard to be had to the desirability of preserving the listed building or its setting or any features of special architectural or historic interest which it possesses. 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.

5. Core Strategy Policy CS5 on the countryside states that uses will be strictly controlled to those appropriate to a countryside location, and Policy CS9 concerns the protection of the built and historic environment. Local Plan Policies RLP2, RLP18, RLP90 and RLP100 respectively set out town development boundaries and village envelopes; detail policy for extensions to dwellings in the countryside; concern the layout and design of development; and the preservation of listed buildings. The Council have also drawn attention to emerging Draft Local Plan policies having similar aims.
6. The Council agree that the extension of a dwelling in the countryside is acceptable in principle under Policy RLP18, and this requires the siting, design, and materials of the extension to be in harmony with the countryside setting, and compatible with the scale and character of the existing dwelling and the plot upon which it stands; extensions will be required to be subordinate to the existing dwelling in terms of bulk, height, width, and position.
7. From the planning history it appears that the garage would have been built following the permission reference 75/00159/P and a two-storey extension to the end of the listed building furthest from the garage would have been built as a result of permission reference 98/00326/FUL and consent reference 98/00327/LBC. Both were after the date of listing and the list description ascribes the date of the lean to nearest the garage and that end of the house including the chimney as being early 19th century work to the *circa* 16th century house.
8. The appellant sets out a number of aspects of the dwelling that have been altered over time, and it does appear that the roof finish is not original, and neither are the windows, doors and wall finishes, added to which the east-end extension is a large modern addition to the original house. However, the overall historic massing of the building is still readily recognisable with the chimney stacks, dormers and irregular ridgeline all contributing architectural and historic significance to the building and its setting which extends over the land, particularly to the front and end opposite the large modern extension.
9. The existing garage does not sit well within this setting, being close to the historic west end and projecting forward of the building line, and it is prominent in the street-scene approaching from the south and at the road junction, albeit filtered by vegetation at times. It is unfortunate that the opportunity was not taken with the 1998 permitted extension to incorporate garaging and storage at that end of the composition. Be that as it may, the garage does have its small size and plain detailing in its favour.
10. The proposed extension to the garage would add 5m in length and just over 1.4m in height, and this together with the addition of rooflights on the raised roof line and glazing to the former garage doors would alter the small, unassuming service building into a tall and long annexe having features of a habitable building. Conditions could control the ancillary use but would not overcome the failings of size and domestic detailing.
11. Those failings would upset the present relationship with the listed building, and the raised roofline would be apparent and disruptive to the street-scene and the appreciation of the qualities of the listed building. The high eaves line would be at odds with the low line and dormers of the historic house and the amount of masonry above the openings on the east elevation would appear unbalanced and unattractive.

12. Although its trunk does not appear to be affected by the proposed addition, there is an oak tree to the north of the site, shown as T1 on the site plan, and this is an attractive and prominent feature of the site and the wider area. Whilst measures could be taken to protect the roots, the height and length of the addition would require substantial lopping of branches. The Design and Access Statement does not identify more than minimal landscaping alterations where the extension extends into the existing drive.
13. An arboricultural report could be required by condition, in order to determine the category of the tree and its expected lifespan, but the information to hand at present is not sufficient to be certain that the works could go ahead without causing actual or visual harm to the tree and hence the street-scene. It is accepted however that the tree is not protected, as the Council's Questionnaire states that there is no such Order in place.
14. To conclude on the merits of the case, the proposals would cause harm to the character and appearance of the area and more particularly, the setting of the listed 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.
15. The appellant claims a lack of guest accommodation, and family requirements for overnight stays. No doubt the additional accommodation would have many advantages to the family, but these are of limited weight as public benefits. The granting of permission for an annexe nearby (Ref 16/00491) cannot be conclusive to a different site, this listed building and the particulars of this proposal; as stated, Policy RLP18 is supportive of such proposals subject to the effects and presumably the Council found that policy to have been met in that case.
16. In the balance it is concluded that the harm caused is not outweighed or otherwise justified and the proposal would be contrary to Policy RLP18 in the effect of the height, width and detailing, having taken due regard of the listed building, the policy being a general one for any dwelling in the countryside. The proposal would not accord with local and national policies that seek the preservation of listed buildings and would fail the statutory test in the Planning (Listed Buildings and Conservation Areas) Act 1990. For the reasons given above it is concluded that the appeal should be dismissed.

S J Papworth

INSPECTOR