



Appeal Decisions

Site visit made on 13 November 2019

by Mr Kim Bennett BSc DipTP MRTPI

an Inspector appointed by the Secretary of State for Housing, Communities and Local Government

Decision date: 17th December 2019

Appeal A Ref: APP/U2235/W/19/3230011

37 Jessamine Cottage, South Street, Barming ME16 9EX

- 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 A Stagg against the decision of Maidstone Borough Council.
 - The application Ref 19/500159/FULL, dated 11 January 2019, was refused by notice dated 6 March 2019.
 - The development proposed is the creation of a single off road parking space, by enlarging existing opening and stone wall, and moving existing stone wall and railings to widen current pathway.
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Appeal B Ref: APP/U2235/Y/19/3230012

37 Jessamine Cottage, South Street, Barming ME16 9EX

- 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 A Stagg against the decision of Maidstone Borough Council.
 - The application Ref 19/500160/LBC, dated 11 January 2019, was refused by notice dated 6 March 2019.
 - The works proposed are the creation of a single off road parking space, by enlarging existing opening and stone wall, and moving existing stone wall and railings to widen current pathway.
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Decision – Appeal A

1. The appeal is dismissed.

Decision – Appeal B

2. The appeal is dismissed.

Preliminary Matters

3. The applications were made on a single form and the description of development is thus the same for both. However, in addition to the listed building considerations, the planning issues as part of the section 78 appeal also relate to potential impact upon adjoining trees. I will consider both issues as part of this single decision letter.
4. The proposal involves a listed building. As such sections 16(2) and 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the Act) require that I have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses. Accordingly, I have determined the appeals on that basis.

Main Issues

5. The main issues are: the effect of the proposal on the special architectural and historic interest of the Grade II listed building; and whether the proposed development would harm existing trees adjacent to the site.

Reasons

Listed building considerations

6. Jessamine Cottage comprises an C18 two storey cottage located on the eastern side of South Street and which is a Grade II listed building. It is symmetrical in appearance with a central door, either side of which are two windows at ground floor. Above these are similarly spaced window openings at first floor and in the roof. To either side of the cottage are attached stone walls and the frontage of the site is a small garden enclosed by railings mounted on a low stone plinth, both of which appear contemporary with the house.
7. The proposed scheme would involve the enlargement of the existing pedestrian door in the right hand wall when facing the cottage, so that it would be 3 metres in width and 2.1 metres in height, in order to accommodate a vehicular entrance to a parking area to the rear of the wall. A hardstanding of cobbled stones would be formed in front of the wall, and the works would also necessitate removal of a section of the frontage railings and plinth.
8. The appellant argues that the walls on either side of the cottage are not symmetrical because they are of different widths, and each has a modern door within it. Additionally, the railings do not have a return on the left hand side and they are in a poor state of repair. It is considered that the works could be handled sensitively and would not detract from the building in which considerable investment has been made over a number of years.
9. As noted above, a key part of the significance and historic interest of the building is its symmetrical appearance, with equally spaced openings and all windows in the main façade being timber sash. No new openings appear to have been inserted within the front elevation and therefore the form and historic interest of that elevation remains intact. Additionally, the enclosure of the frontage by the iron railings and stone plinth, the latter of which matches the stone from the walls to either side, also contribute significantly to its historical interest as a vernacular building influenced by polite Georgian architecture. Although I acknowledge that the adjoining walls do not provide absolute continuation of symmetry given their unequal lengths, they nevertheless contribute to the overall symmetry and historic form of the cottage by virtue of them being on the same alignment, of similar height and with return ramped sections to similar rectangular piers at either end. In my view therefore they are important elements of the building's special architectural and historic interest.
10. The proposed works would introduce a large opening into the right hand wall, which would be disproportionate when compared to the existing restrained pedestrian openings to either side. As well as causing loss of historic fabric, it would visually disrupt the historic symmetry of the front elevation and adjoining walls as well as adversely affecting the enclosure of the front garden of the cottage. The removal of a section of railings and plinth, which form part of the listed building, would cause further harm to the enclosure of the garden

in that the frontage would be opened up with a hard surfaced area which would be at odds with its current character and historic interest, however sensitively the surfacing treatment was handled. It would involve the loss of important historic features and whilst I noted that there were a few missing railings and other parts in need of repair, the railings and therefore the contribution they make to the building's special interest, are substantially intact.

11. Paragraph 193 of the National Planning Policy Framework 2019 (the Framework) advises that when considering the impact of development on the significance of a designated heritage asset, great weight should be given to the asset's conservation. This is irrespective of whether any potential harm amounts to substantial harm, total loss or less than harm to its significance.
12. The Council considers that the level of harm identified above would be substantial within the meaning of the term in the Framework. Given that there would be no works to the cottage itself and that the wall and railings would be retained in part, albeit altered, I do not share that view and consider that the proposed works would be less than substantial in the context of the Framework.
13. Under such circumstances, paragraph 196 of the Framework says that such harm should be weighed against any public benefits of the proposal including, where appropriate, securing its optimum viable use. In that regard, the appellant argues that the removal of an on street parking space would assist with unimpeded access along South Street and potentially access by emergency vehicles. However, given that this would be one space compared to the many that currently exist along South Street, and would therefore not alter existing street conditions to any significant degree, I give that argument little weight.
14. Additionally, a key part of the proposal would be to provide an off street electric charging point which currently would be difficult to provide given that a cable would have to extend across the public footpath. Whilst I acknowledge that could be construed as a public benefit in terms of it being consistent with Government objectives to reduce carbon emissions, it would be of limited wider public benefit in isolation. I attach limited weight to that compared to the permanent harm and loss of historic features to the listed building, which would be directly contrary to policy advice within paragraph 193 of the Framework as noted above. No other public benefits have been drawn to my attention which would outweigh the harm identified.
15. The appellant has referred to an apparently similar scheme having been approved by the Council at the adjoining property No 33-35 South Street. No particular details are before me and such cases have to be considered on their individual merits having regard to particular site circumstances. I also note that the property is not listed and therefore different statutory considerations apply. Accordingly, that example has not affected my findings above.
16. I acknowledge the investment which the appellant has clearly put in to the cottage. I also appreciate the desire for an off street parking space, albeit that there is currently on street parking immediately outside the property. However, I conclude that, on balance, the proposal would fail to preserve the special historic interest of the Grade II building. This would fail to satisfy the requirements of the Act and paragraph 196 of the Framework. It would also be contrary to Policies DM4 and SP18 of the Maidstone Borough Local Plan 2017

(LP) in that it would fail to preserve the significance of the heritage asset. As a result, the proposal would not be in accordance with the Development Plan.

Impact on trees

17. The Council is concerned that the proposed works may impact upon the root systems of nearby trees and in that respect, there is one mature tree immediately on the other side of the right hand pier at the frontage to the site and within the curtilage of the adjoining property No 39 South Street. Together with other trees on the frontage, it provides significant amenity value. Although not specifically mentioned by the Council in its delegated officer report, documents submitted with the appeal show that trees along the frontage of No 39 South Street are protected by Tree Preservation Order No 18 of 2002. In response, the appellant says that there would be no deep foundations which would harm the root systems of the adjoining tree and the development would not affect branches or leaves.
18. Having inspected the site closely, I saw no signs of any roots near the surface of the appeal site or in the adjoining footpath. However, that is not to say there are none just below the surface. Additionally, there is no information as to exactly how deep foundations would need to be in order to provide the hardstanding or to take account of any level differences across the site. Without some specific evidence of lack of impact to any root systems and details of depth of excavation works, I cannot be certain that the nearest tree could be adequately safeguarded and therefore it would provide continued amenity value within the street scene. As a result, the development would be contrary to Policies DM1 and DM3 of the LP in that it would not protect trees of significant amenity value.

Conclusion

19. For the above reasons, and having regard to all other matters, I conclude that both appeals should be dismissed.

Kim Bennett

INSPECTOR