
Appeal Decisions

Site visit made on 11 August 2020

by S J Papworth DipArch(Glos) RIBA

an Inspector appointed by the Secretary of State

Decision date: 18 August 2020

Appeal A: APP/G2245/W/20/3250443

Southdown House, High Street, Brasted TN16 1JE

- 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 The Beach (Sevenoaks) Ltd against the decision of Sevenoaks District Council.
 - The application Ref 19/02249/FUL, dated 1 August 2019, was refused by notice dated 14 October 2019.
 - The development proposed is change of use and conversion of Southdown House to create a self-contained four bedroom dwelling, conversion of outbuildings to ancillary living accommodation, demolition of existing outbuildings and extensions to Southdown House and the erection of a detached four bedroom dwelling in the rear portion of the curtilage, with associated parking, landscaping and amenity.
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Appeal B: APP/G2245/Y/20/3250448

Southdown House, High Street, Brasted TN16 1JE

- 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 The Beach (Sevenoaks) Ltd against the decision of Sevenoaks District Council.
 - The application Ref 19/02250/LBCALT, dated 1 August 2019, was refused by notice dated 14 October 2019.
 - The works proposed are change of use and conversion of Southdown House to create a self-contained four bedroom dwelling, conversion of outbuildings to ancillary living accommodation, demolition of existing outbuildings and extensions to Southdown House and the erection of a detached four bedroom dwelling in the rear portion of the curtilage, with associated parking, landscaping and amenity.
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Decision Appeal A

1. I allow the appeal and grant planning permission for change of use and conversion of Southdown House to create a self-contained four bedroom dwelling, conversion of outbuildings to ancillary living accommodation, demolition of existing outbuildings and extensions to Southdown House and the erection of a detached four bedroom dwelling in the rear portion of the curtilage, with associated parking, landscaping and amenity at Southdown House, High Street, Brasted TN16 1JE in accordance with the terms of the application, Ref 19/02249/FUL, dated 1 August 2019, subject to conditions 1) to 10) on the attached schedule.

Decision Appeal B

2. I allow the appeal and grant listed building consent for change of use and conversion of Southdown House to create a self-contained four bedroom

dwelling, conversion of outbuildings to ancillary living accommodation, demolition of existing outbuildings and extensions to Southdown House and the erection of a detached four bedroom dwelling in the rear portion of the curtilage, with associated parking, landscaping and amenity at Southdown House, High Street, Brasted TN16 1JE in accordance with the terms of the application Ref 19/02250/LBCALT, dated 1 August 2019 and the plans submitted with it subject to conditions 1) and 2) on the attached schedule.

Main Issues

3. In both appeals there is a main issue of the effect of the proposal on the significance of the listed building and the Brasted Conservation Area.
4. In Appeal A only there is a further main issue of the effect of the proposed change of use on the provision of employment and retail functions in the local centre.

Reasons

Listed Building

5. Policy EN4 of the Allocations and Development Management Plan on heritage assets seeks the conservation or enhancement of their character, appearance and setting, with applications being assessed with reference to stated considerations.
6. 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.
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. The architectural and historic significance of the building, including as it does the neighbouring dwelling referred to as Mandey's, as well as an appraisal of the Brasted Conservation Area is contained within the appellant's full and apparently accurate 'Heritage Statement'. There is no need to repeat those findings which, on the basis of my inspection of the building and its setting, is endorsed and the various items specifically referred to were identified.
9. The part of the building which is now Southdown House was once a dwelling and whilst the present use has allowed access to the building for many visitors to the shop, it is clear that the present use has compromised the preservation of the building, and the shortcomings identified in the Fire Services Notice would, if forced to be complied with, further harm the presentation of the buildings. In addition, the appellant's claim as to the lack of viability and the resulting risk of further backlog of maintenance carries some weight notwithstanding the statutory duty to keep listed buildings in repair. The evidence is that continued use as at present is not sustainable and cannot be regarded as the optimum viable use

10. The proposed removal of the low-quality lean-to and reinstatement of the front and rear façades would be beneficial and hence would be acceptable. The internal changes to fit the building as a dwelling would cause some low level of harm to be placed in the balance, but none of the proposed changes would strike at the heart of the building's significance. The most harmful intervention would be the additional studwork wall to provide acoustic separation, but this would be reversible if required and facilitates the residential use which in this case is the original and optimum viable use. The removal of the poor arrangement of the first floor stair giving access to the top floor and its placement in a better relationship to the lower stair and giving a safer shape, would be beneficial, and the insertion of the new dormer to match an existing one would cause no harm.
11. Looking to the rear courtyard, some of the existing buildings are of limited significance and for the most part cause clutter and hence harm to the presentation of the principle listed building; their removal would be beneficial. The retention and re-use of the barn nearest the rear would however provide a visual buffer to the modern development at Mulberry Place and its rearward extension, which is to be retained also, would link visually with the proposed new car port.
12. Further to the rear the land appears underused and degraded and is not a fitting setting for the listed building, nor an attractive outlook for the new dwellings set in a saw-tooth arrangement in Mulberry Place. The siting of the proposed new house would align with those dwellings and the use of the far end of the site as garden would allow attractive landscaping in place of the degraded land there now. The linear arrangement of barn annexe and car port, terminating with the house across the width of the site would form an attractive courtyard and an appropriate setting for the listed building that is missing at present and would improve the public view within the conservation area.
13. As a result, there would be some harm to the internal presentation of the listed building, but this would not transfer to harm the conservation area, the character and appearance of which would in fact be enhanced.
14. 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 web-based Planning Practice Guidance states at Paragraph: 018 Reference ID: 18a-018-20190723 that within each category of harm, the extent of the harm may vary and should be clearly articulated. In this case the harm would be a limited way along the 'less than substantial' scale due mostly to the adverse effect on the visibility and appreciation of the timber structure.
16. However, in a Council area that cannot demonstrate a 5-year supply of housing land, the provision of 2 dwellings in a village with a convenience store and bus service would be a public benefit of considerable weight and the removal of inappropriate and unattractive additions and outbuildings would enhance the setting of the listed building and the character and appearance of the conservation area, adding further weight as public benefits.

17. To conclude on this main issue, the conversion of the listed building to a viable use as a dwelling together with the demolition works to the rear would outweigh the harm such that the statutory tests in the 1990 Act would be met, as would Policy EN4 and the requirements of the Framework on designated heritage assets. Listed building consent should be granted and the effect on the listed building does not provide a clear reason to refuse the development proposal in the planning appeal.

Employment Functions

18. Core Strategy Policy LO7 on development in rural areas states that within Brasted infilling and redevelopment on a small scale only will be permitted taking account of the limited scope for development to take place in an acceptable manner, and the limited range of services and facilities available. The loss of services and facilities that serve the local community will be resisted unless evidence shows it to be no longer viable. Policy TLC4 of the Allocations and Development Management Plan concerns neighbourhood and village centres and contains a requirement to retain retail units subject to viability.
19. The Council has also referred to Policy EMP5 of that latter Plan on non-allocated employment sites, while the appellant has disputed its relevance. The supporting text relates the policy to Core Strategy Policy SP8 which appears specific to business uses, and including hotels, but does not appear to be relevant to retail uses such as here. Be that as it may, Policies LO7 and TLC4 above do provide safeguards to judge the proposed change of use.
20. Brasted High Street is the A25, which provides a through-route serving settlements and other areas adjacent to the parallel M25, between the widely spaced Junctions 5 and 6. It appeared busy at the time of the site inspection. The village is served by a convenience store on the opposite side of the road and a little to the east, and there is a public house with restaurant also. In addition, the village has a number of other antique shops, together with interior and lighting shops, and there are further refreshment and service outlets such as a tea shop and beauty salon. There is ample evidence of previous shopfronts now associated with residential uses.
21. The antiques centre at Southdown House has its own car parking to the rear and would be a destination rather than clearly only serving local needs and should not be regarded as serving day-to-day needs. The employment function, so far as is relevant to Policies LO7 and TLC4, appeared to be limited, the indication being of individuals operating independently.
22. The appellant has provided reports on marketing attempts, the Fire Services view of non-conformity and a surveyor's investigation, and the result is a view that the building requires investment to overcome some years of low maintenance and to bring the fire safety back to the required standards. The income does not cover the costs that should be put into the equation and the enterprise appears to have been subsisting only, due to a lack of proper investment for the future. That has placed the significance of the listed building at risk and is not a situation that could continue indefinitely.
23. The change of use would bring some benefits, partly as set out in the consideration regarding the effect on the listed building. Paragraph 11 of the

Framework would be engaged due to the housing land situation and the provision of 2 new dwellings would assist

24. In conclusion on this main issue, there is no overriding policy objection to the change of use through the loss of the antiques centre as the aims of Policies LO7 and TLC4 would be met. Furthermore, no identifiable harm to the day-to-day retail offer in the settlement would occur. The tilted balance in paragraph 11 of the Framework should apply as, in line with paragraph 11d).i and footnote 6, the application of policies with regard to designated heritage assets do not provide a clear reason for refusal as determined in the first main issue.

Conditions

25. The Council had suggested a single set of conditions which mixed reference to 'development' and 'works' and only some of these are required in the listed building consent.
26. In the planning appeal, it is reasonable and necessary to require further details of landscaping and in view of the nature of the site and the designated heritage assets, this should be a pre-condition to ensure a holistic design. The same applies to the need for an archaeological watching brief, and to the need for bat and reptile mitigation before demolition. Charging for electric vehicles is a reasonable requirement as is the need for ecological enhancement, and trees should be protected in order to preserve the character and appearance of the area. The risk of the proposed annexe being used separately to the dwelling should be explicitly prevented by condition.
27. The Council propose a condition seeking further details on a range of areas of work, and it is necessary that these be provided before any works or development is carried out. The list needs however to be split between the Planning Permission and the Listed Building Consent. A condition naming the 'as proposed' drawings is required in the planning permission only for the avoidance of doubt.

Conclusions

28. The limited harm to the listed building is outweighed by public benefits and the loss of the antiques centre is permissible in the circumstances as allowed for in policy. The provision in its place of 2 dwellings in this accessible location, in line with the presumption in favour of sustainable development would be a significant benefit, furthering elements of all 3 objectives in paragraph 8 of the Framework. 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 begin not later than 3 years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: RF61/03, 08B, 09C, 11, 12C, 13C, 14B, 15, 16, 17 (proposed House E Elevation), 18 and 20.
- 3) No development shall be carried out until full details of both hard and soft landscaping shall be submitted to and approved in writing by the Local Planning Authority. These details shall cover as appropriate: Proposed finished levels or contours; Hard surfacing materials; Planting plans; Boundary Treatments; Written specification (including cultivation and other operations associated with plant and grass establishment); Schedules of plants, noting species, planting sizes and proposed numbers/densities where appropriate; Implementation timetables. Development shall then be carried out in accordance with the approved details. Any trees or plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species, unless the Local Planning Authority gives written approval to any variation.
- 4) No development shall take place until the applicant, agent or successors in title, has secured the implementation of a watching brief to be undertaken by an archaeologist approved by the Local Planning Authority so that the excavation is observed and items of interest and finds are recorded. The watching brief shall be in accordance with a written programme and specification which has been submitted to and approved in writing by the Local Planning Authority.
- 5) Prior to occupation of the dwelling, details for the provision of facilities for the safe charging of electric vehicles and an implementation timetable for the installation of the unit shall be submitted to and approved in writing by the Local Planning Authority. The facilities shall be installed in accordance with the details so approved, within 3 months of the approval and be retained, maintained thereafter and be available for use at all times.
- 6) Prior to development commencing a detailed bat and reptile mitigation strategy must be submitted to the Local Planning Authority for written approval. The strategy must be implemented as approved unless varied by a European Protected Species (EPS) license issued by Natural England.
- 7) Within 3 months of development commencing a scheme to promote ecological enhancement shall be submitted to and approved in writing by the Local Planning Authority with a scheme of implementation. The development shall be carried out in accordance with the approved details and shall be retained thereafter.
- 8) The proposed annexe shall be used solely as living accommodation in connection with the associated dwelling unit and shall not be used as a separate self-contained unit of accommodation.
- 9) No development shall take place until a method statement has been submitted to and approved in writing by the Local Planning Authority to show the strategies to be used to ensure the protection of two trees to

the east of the site. The development shall be carried out in accordance with the approved strategy.

- 10) No development shall be carried out until the following details have been submitted to and approved in writing by the Local Planning Authority:
- i) Schedule of works for all proposed work to the listed building, this should include measures that will be undertaken to protect the significant historic fabric;
 - ii) Sample bricks for alteration to listed building (including ancillary buildings);
 - iii) Sample hanging tiles for listed building;
 - iv) Sample roof tiles for listed building (and ancillary buildings);
 - v) Details of render to be used at ground-floor level of the rear elevation of listed building;
 - vi) Elevations (1:10) and horizontal and vertical sections (1:5) of window details for all proposed or altered windows in the listed building (and ancillary buildings);
 - vii) Details of new glazing in the listed building (and ancillary buildings);
 - viii) Sample roof tiles of new dwelling and car port;
 - ix) Sample hanging tiles of new dwelling and car port;
 - x) Sample brick of new dwelling.
 - xi) Sample brick of proposed dwarf walls to new dwelling;
 - xii) Timber window frames to be used in the proposed new dwelling; and
 - xiii) Details of glazing for the proposed new dwelling.

The development shall be carried out only in accordance with the approval given.

Schedule of Conditions Appeal B – Listed Building Consent

- 1) The works hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) No works shall be carried out until the following details have been submitted to and approved in writing by the Local Planning Authority:
 - i) Schedule of works for all proposed work to the listed building, this should include measures that will be undertaken to protect the significant historic fabric;
 - ii) Method statement for repositioning of Georgian panelling within the proposed Bedroom 1;
 - iii) Detailed drawing of roof structure showing exact location of proposed dormer window within the existing structure;
 - iv) Sample bricks for alteration to listed building (including ancillary buildings);
 - v) Details of mortar mix to be used on the listed building (including ancillary buildings);
 - vi) Sample hanging tiles for listed building;

- vii) Sample roof tiles for listed building (and ancillary buildings);
 - viii) Details of render to be used at ground-floor level of the rear elevation of listed building;
 - ix) Elevations (1:10) and horizontal and vertical sections (1:5) of window details for all proposed or altered windows in the listed building (and ancillary buildings);
 - x) Details of new glazing in the listed building (and ancillary buildings);
- The works shall be carried out only in accordance with the approval given.