
Appeal Decisions

Site visit made on 29 September 2020

by S J Papworth DipArch(Glos) RIBA

an Inspector appointed by the Secretary of State

Decision date: 14 October 2020

Appeal A: APP/D3830/W/19/3230709

Bagpiths Cottage, Haywards Heath Road, Balcombe RH17 6PE

- 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 Mrs Jaclyn Cook against the decision of Mid Sussex District Council.
 - The application Ref DM/19/1398, dated 9 April 2019, was refused by the Council by notice dated 4 June 2019.
 - The development proposed is demolition of existing shed and rear extension with replacement part single storey, part two storey extension. erection of new shed at rear of property.
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Appeal B: APP/D3830/Y/19/3230713

Appeal C: APP/D3830/Y/19/3230714

Bagpiths Cottage, Haywards Heath Road, Balcombe RH17 6PE

- The appeals 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 Mrs Jaclyn Cook against the decisions of Mid Sussex District Council.
 - In Appeal B, the application Ref DM/19/1402, dated 9 April 2019, was refused by the Council by notice dated 4 June 2019.
 - In Appeal C, the application Ref DM/19/1506, dated 12 April 2019, was refused by the Council by notice dated 4 June 2019.
 - In both Appeals the works proposed are described the same; demolition of existing shed and rear extension with replacement part single storey, part two storey extension. erection of new shed at rear of property.
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Decisions

1. I dismiss all 3 appeals.

Main Issue

2. The host building is listed Grade II and lies within the Balcombe Conservation Area. In each appeal the main issue is the effect of the proposals on the significance of designated heritage assets.

Reasons

Policy and Statutory Background

3. 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. These duties are reflected in Policies DP34 and DP35 of the Mid Sussex District Plan. Policy 3 of the 'made' Balcombe Parish Neighbourhood Plan contains requirements on design.

4. 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.

Preliminary Observations

5. The appeals concern 2 designs, with Appeals A and B being shown on drawings including the 3D views in 1808-SK16C, while Appeal C concerns a change to the pyramidal-roofed part shown on, among the other revised drawings, 1808-SK16D. It is significant that a previous iteration of the scheme design, shown on drawing 1808-SK16B was dismissed at appeal by Decisions dated 8 January 2020 (Refs; APP/D3830/W/19/3226402 & APP/D3830/Y/19/3226401).
6. The main findings of that Inspector are; that there is no objection to the removal of the single storey addition and shed, the proposed new shed to the far boundary along with the proposed new chimney on the main ridgeline and flue; that there was harm to the conservation area and the High Weald Area of Outstanding Natural Beauty; that the flat roofed addition across most of the rear width would provide a stark contrast to the traditional pitched roof design of the cottage; and that the proposed link and 'pod' would introduce a confusing mix of styles and materials that would be incongruous in relation to the simple form and fabric of the building.
7. The conclusion was that 'less than substantial' harm would be caused to both designated heritage assets and that no public benefits had been put forward that would outweigh that harm. The proposal was found not to meet the requirements of the 1990 Act, Policy DP34 of the District Plan and Policy 3 of the 'made' Balcombe Parish Neighbourhood Plan.
8. There are differences between that scheme and the 2 iterations now at appeal, and these will be taken into account, but much of the findings of the previous Inspector remain relevant, as they relate to the same site and area of the site, and the policy and statutory background remains the same. Furthermore, the January 2020 Decision should be regarded as recent, and hence a material consideration of substantial weight.
9. As an indication of the importance that should be attached to that Decision, the web-based Planning Practice Guidance states at paragraph: 053 Reference ID: 16-053-20140306 that an appellant could be at risk of a substantive award of costs against them for unreasonable behaviour where the appeal follows a recent appeal decision in respect of the same, or a very similar, development on the same, or substantially the same site where the Secretary of State or an Inspector decided that the proposal was unacceptable and circumstances have not materially changed in the intervening period.
10. Planning Inspectors can instigate costs against a party that has behaved unreasonably, and where this has directly caused another party to incur unnecessary or wasted expense in the appeal process. That course of action

will not be taken in this case however since the current appeal was made before the January 2020 Decision was issued, and the Council did not incur any wasted expense as their last involvement pre-dated that issue.

11. It was due to this timetable and the fact that the final comments from the appellant to this appeal also pre-dated the issue of the 2020 Decision that the appellant was permitted to make further final comments related to that Decision, and these have been taken into account in the reasoning which follows.
12. However, it would not be right to treat this appeal as an appeal against the previous Decision, which was not challenged, or for the appellant to rely on the differing tastes or a 'second opinion' of another Inspector. To come to a substantially different conclusion in this appeal where there are no changes proposed, and without good reason, would risk a High Court Challenge on the basis of irrationality or 'Wednesbury' unreasonableness.

Designated Heritage Assets

13. Having mind to requirements of sections 16(2) and 66(1), the first task is to identify the features of special architectural or historic interest that the building possesses. That exercise has been carried out in considerable detail in the appellant's '*Design and Heritage Statement*', and '*Historic Building Assessment*', and these findings were accepted by the previous Inspector. Those findings are accepted in this Decision and it is not necessary to repeat the matters which make up the architectural and historic significance of the building and the character and appearance of the conservation area.
14. Although much has been said already about the recent Appeal Decision, a further relevant part of the planning history is the grant of planning permission and listed building consent in April 2012 for a single-storey rear extension, new porch, the reinstatement of a chimney and minor internal alterations, Reference numbers 12/00842/FUL and 12/00841/LBC). Although now lapsed, it would have been decided against the same 1990 Act and the similar provisions of the March 2012 Framework, although the current District Plan was only adopted in 2018.
15. From the information supplied, the almost full-width rear flat-roofed addition now proposed is substantially that found unacceptable in the 2020 Appeal. The suggested reasons why the 2012 approved rear addition did not extend so far are likely to be matter of choice and resulting client's brief, and the use of pitched roofs was clearly found acceptable to the Council. The flat roofed addition would be over-large, and whilst attaching to a part of the building that has low significance, would unbalance the composition and divorce the garden setting of the building further from its historic core. Whilst a well-designed flat roof could be appropriate as part of a rear addition and would allow the upper floor windows and present rear wall to be appreciated, the proposal is over-dominant.
16. The linking piece and 'pod' described by the previous Inspector and shown on drawing 1808-SK16B, among others, has undergone further iterations in the use of materials and the arrangement of the eaves. As a result, the effect would be of a less confusing mix of materials, more in line with the simple form and fabric of the existing building, but the objection to the scale and bulk, and changes of height have not been addressed and the 'pod' remains as an

incongruous form that fails to be subservient to the building as a whole, and remains as a dominant contrast. The appellant makes reference to other examples of similar shaped additions, and its derivation from traditional roof forms, but each case does need to be assessed on its merits and in relation to the host building and its setting.

17. As to visibility, less weight is attached to the effect on the more distant views previously referred to, as the present design of the 'pod' would likely be less arresting through a duller appearance at the distances involved, and it is noted that the Council's Reasons for Refusal now make no reference to the Area of Outstanding Natural Beauty.
18. With regard to the conservation area, there is an oblique and fleeting view between Bagpiths Cottage and its neighbour to the north-west, but mostly obscured by the canopy of a tree. The more subdued treatment of the 'pod' would be less likely to draw the eye and would not strike at the heart of the conservation area's character and appearance.
19. To conclude, due allowance has been made for areas of change now proposed to the previous appeal scheme, and to aspects of this Decision where weight can be apportioned differently than previously. Nevertheless, harm has been identified through the effect on the architectural and historic significance of the listed building and its setting to the rear.
20. 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.
21. As before, there does not appear to be any risk of the dwelling falling out of its present use, which should be regarded as the optimum viable use. The additional space would no doubt be welcome, and a private owner willing to invest in the upkeep of a listed building can be a public benefit. The reinstatement of the chimney to the ridgeline would be a public benefit to the conservation area and the listed building and could be secured by condition. However, that could accompany a more appropriate extension, and as with the previous Inspector, there is no 'in principle' objection to the rearward extension of this property, evidenced by the 2012 decisions. In the balance, the public benefits of the proposal do not outweigh the harm.
22. The proposals now at appeal fail to satisfy the statutory test in sections 16(2) and 66(1) of the 1990 Act, do not reach the standards set in Policy DP34 of the District Plan and Policy 3 of the Neighbourhood Plan, and do not accord with the aims of the Framework in conserving a heritage asset in a manner appropriate to its significance, a matter to which great weight should be given. In the absence of public benefits sufficient to outweigh the harm and for the reasons given above, it is concluded that all 3 appeals should be dismissed.

S J Papworth

INSPECTOR