

Appeal Decision

Site visit made on 6 October 2020

by S J Papworth DipArch(Glos) RIBA

an Inspector appointed by the Secretary of State

Decision date: 26 October 2020

Appeal Ref: APP/E2205/W/20/3254175

Coach House at The Cottage, The Street, Great Chart TN23 3AH

- 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 & Mrs Gus Derosa against the decision of Ashford Borough Council.
 - The application Ref 19/00738/AS, dated 21 May 2019, was refused by the Council by notice dated 5 March 2020.
 - The development proposed is conversion of existing outbuilding and extension to form new dwelling.
-

Decision

1. I dismiss the appeal.

Procedural Matter

2. An unaccompanied site visit had been arranged, as a result of both the appellants and the Council completing their respective appeal forms with the information that the relevant parts could be seen from public land and that it was not therefore essential for the Inspector to enter the site. In the event, and despite attempting to take an adequate view through the disrupted fencing off the garage courtyard to the rear, insufficient information could be obtained from public places.
3. In view of the criticism levelled at the Council's Conservation Officer over whether a site inspection was carried out, a closer view was considered essential. Fortunately, the occupier was at home and was able to allow access through the garden gate. A full and satisfactory inspection was carried out without the need to re-arrange the visit.
4. The appeal is against only the refusal of planning permission, although there are references in both the appellants' and the Council's submissions to there having been an accompanying Listed Building Consent application, reference 19/0739/AS, which was refused for a single reason similar to the first Reason for Refusal in this appeal.
5. The formation of a new residential unit is not at issue, being supported in this location by Local Plan Policy HOU3a which lists Great Chart as a location where satisfactory infilling is permitted subject to criteria.
6. It is noted that there is an extant consent for works to the curtilage listed building, but without extension, reference 18/00332/AS dated 13 July 2018 and that agreement has been reached as to how conditions 3) and 4) to that consent could be met.

Main Issues

7. The main issues are;

- The effect of the proposal on the architectural or historic significance of the listed building and its setting within the Great Chart Conservation Area.
- The effect of the proposal on the living conditions of neighbouring residential occupiers, with particular regard to visual impact.
- The effect of the proposal on the ecology and wildlife within and around the site.

Reasons

Listed Building

8. Local Plan Policy SP6 promotes good design and the criteria in Policy HOU3a include being of a layout, design and appearance that is appropriate to and compatible with the character and density of the surrounding area, and not resulting in significant harm to heritage assets. The conservation and enhancement of heritage assets is the subject of Policy ENV13, with the 2 levels of harm mentioned in the National Planning Policy Framework being referred to.
9. Paragraph 193 of that statement of Government planning policy 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.
10. 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 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.
11. The works that have been found acceptable in the 2018 extant consent would have resulted from the Council's consideration of the scheme against the requirements of section 16(2) of the 1990 Act, which has the same wording as that quoted above, but relates to listed building consents, while section 66(1) relates to the consideration of planning applications. The quoted paragraph 193 would have applied also, while the Development Plan policies would have been a material consideration since Section 38(6) of the Planning and Compulsory Purchase Act 2004 and the primacy of the Development Plan do not apply to applications and appeals made under listed buildings legislation.
12. From all of that it can be taken that the works to the internal arrangement of the curtilage listed building now proposed, together with the works to the north-west, south-west and north-east elevation external walls and openings, would preserve the architectural and historic significance of the building, and conditions similar to those attached in 2018, with the same comments where appropriate, would ensure that the details of significance would be preserved.
13. However, whilst that scheme did not proposal any addition to the footprint of the building, the appeal scheme includes a 2-storey pitch-roofed part, joined to the coach house by a substantially glazed linking piece. That would encompass

the south-east elevation openings at ground floor level, partly as existing but with an additional door to the hall, and would have a narrower link at first floor level to a new opening through the existing eaves, glazed to the garden side but solid to the north-east side.

14. Considering first the effect on the conservation area, for the reasons that prompted the need to seek access for the appeal site inspection, coupled with the low ridge line of the proposed new-build part, the proposal would have no adverse effect on the character and appearance of the designated area, and would bring about some enhancement through the repair of the coach house, the front elevation of which is seen from public places along a short length of The Street, through the gateway. The requirements of Section 72(1) of the 1990 Act are met, including enhancement.
15. However, there are features of historic significance on the south-east elevation, as evidenced by the Council's response to discussions over discharging conditions 3) and 4) of the 2018 consent, and these would be subsumed within the new works. In addition, the size and design of the addition would overwhelm the small service building, robbing it of much of its historic interest and association with the house, and eroding the architectural interest, albeit that the building is not high-grade architecture, but it is an interesting example of a one-time essential adjunct to the house and demonstrates social significance.
16. The proposed addition would too closely mimic the form of the coach house to the detriment of its special interest and that failing is not overcome or sufficiently mitigated by the use of the glazed link, the distance between the two pitched-roof elements, old and new, and the change in materials between the two.
17. Reference has been made to the perceived need to develop a larger dwelling than permitted previously, in order to be in-keeping with buildings on the newly developed neighbouring site. However, whilst a balance has to be struck, the need to preserve the significance of the curtilage listed building should take precedence over the aim of responding to the development of a modern dwelling next door.
18. Consequently, it is concluded that the proposal would cause harm to the significance of the curtilage listed building, its relationship with the principle listed building and hence the setting of the ensemble, and the fact of compliance of the materials chosen with the '*Great Chart Design Statement Design Guidelines*' and Supplementary Planning Guidance '*Re-use of Agricultural Buildings*' does not alter that conclusion.
19. 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.
20. It does not appear to be any risk of the principle listed building falling out of its optimum viable use as a residence, but there is a risk of further deterioration and ultimately loss of the coach house if the stated defects are not attended to. The care of listed buildings is a responsibility backed by statute, and Councils can insist on works being carried out. However, better to find a viable use for the building, as stated in paragraph 196.

21. In this case the building is not large and could be a useful store or garden building, and the appellants' reference to viability within the context of a domestic service building does not inevitably lead to the need for a profit-making solution or even one that covers its costs. Repairs to a dwelling are often carried out to safeguard the investment overall and ensure its marketability. The reference in paragraph 196 to optimum viable use should not be taken to be at the expense of the listed building.
22. Nevertheless, the appellants have clearly linked the need for a residential development to be viable on its own with the need to extend the footprint of the building. Whilst that is a material consideration, limited weight attaches to it where it brings about harm to the listed building. Even in cases of enabling development or facilitating development, the preservation of the listed building has to be the prime aim. The claim that the 2018 scheme is unviable has not been backed by substantive evidence, and private financial benefits are not public benefits.
23. There would be a public benefit in the provision of a dwelling, further to the statement at paragraph 59 of the Framework on the need to significantly boost the supply of housing, but again, that should not be at the expense of the significance of listed buildings. The enhancement to the conservation area is also a public benefit, but the listed building should be kept in good repair in any event, and it has not been shown that simple repairs are unviable.
24. In the balance, the harm identified has not been shown to be outweighed by public benefits and the proposal fails to satisfy the statutory test in section 66(1) of the 1990 Act, does not reach the standards set in Policies SP6, HOU3a and ENV13, and does 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.
25. For the purposes of the remaining Main Issues, it is made clear now that this conclusion alone is determinative in the decision to dismiss the appeal.

Living Conditions

26. Policy HOU3a seeks to avoid a significant adverse impact on the amenity of existing residents, and the Council claim that the proposed addition would appear unacceptably overbearing and dominant from the garden area and ground floor openings of the adjoining residential property. That property was only recently developed to the north-east of the appeal site under reference 16/01854/AS dated 12 May 2017 and the decision to permit that design and layout would have taken account of the proximity of the curtilage listed building. It would not however have taken account of any possible future extensions to that building and it is for the appeal proposal to respond to the current situation.
27. The development consists of a frontage block with an archway access to a parking area and a fourth house to the rear, that house apparently having its garden space split between the south-west and the north-west. From the floor plans it appears that the large ground floor glazed doors facing the appeal site provide the only light and outlook for the lounge, and the side wall and gable end of the proposed extension would be in the order of just under 10m away to the south-west. The Council has not referred to any specific dimensions for separation distances, and that in any event would be highly dependent on the

circumstances; the Officer refers only to 'close proximity' but does include concern over the use of the garden in addition to the house.

28. Having mind however to the distance to the window, the orientation, the open nature of much of the outlook either side of what would be in place, as well as the amount and variety of garden space allotted to this new dwelling, the proposed development would not represent a significant adverse impact with regard to the living conditions of the neighbouring occupiers, the threshold stated in Policy HOU3a. The proposal would accord with the requirement of Framework paragraph 127f) to create places with a high standard of amenity for existing and future users.

Ecology and Wildlife

29. Policies ENV1 and HOU3a concern biodiversity and require development not to cause significant harm to such interests. The building is in a poor state of repair with openings, and the appellants agree that there could be roosting bats. It is further agreed that a survey would need to be carried out only between May and August in any year, but that a scoping ecological survey found no evidence of bats. Whilst this matter did not apparently prevent the granting of the 2018 consent, bats are a protected species and the survey would be required.
30. In addition, the Council wrote on 25 September 2020 with regard to advice received from Natural England over the need for an Appropriate Assessment under the Habitats Regulations in respect of the protected sites at Stodmarsh Lakes, the site being within the Stour river catchment area. The Inspector at appeal is the Competent Authority under those Regulations.
31. In view of the finding that the failure to preserve the listed building alone leads to the decision to dismiss the appeal, no further Assessment needs to be carried out and the appellants were not asked for further comment on the 25 September letter.

Conclusions

32. Whilst the effect on the outlook of the neighbouring residential occupier would not be significantly adverse, habitat and ecology concerns could be addressed at the correct time, and the conservation area would be preserved, the effect on the curtilage listed building has not been shown to be outweighed by public benefits or otherwise justified as being essential for the preservation of the building. The proposal does not accord with statute, the Development Plan or national policy and for the reasons given above it is concluded that appeal should be dismissed.

S J Papworth

INSPECTOR