



Appeal Decisions

Site visit made on 16 June 2021

by Cullum J A Parker BA(Hons) MA MRTPI MCMI IHBC

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

Decision date: 21 June 2021

Appeal A Ref: APP/E2205/W/20/3257051

13 Barrow Hill Terrace, Barrow Hill, Ashford TN23 1NF

- 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 Ms Akvile Vanagaite against the decision of Ashford Borough Council.
 - The application Ref 19/0178/AS, dated 30 August 2019, was refused by notice dated 20 May 2020.
 - The development proposed is described as *'The gates and the freestanding wall to the back garden of the No 13 property are in a bad state of disrepair and currently existing gate construction is not sustainable – the residents of the property are often denied access to the back garden. Current gate has been blocked number of times denying the access to the property for the residents (pictures attached). The gate fails to open for the bin collection, taking bikes out and enjoying access to the property while using the parking at the back of the property. There is a need to install a new gate that would keep the character features of the area and also would facilitate the needs of the No 13 residents. The proposed design of the new gate will provide the sense of enclosure and would maintain the street scene, and balance the needs to access the property from the back garden for the residents of Barrow Hill Terrace no 13. It is also important to consider the current state of the wall and also the need to repair – the current state of the gate and wall poses a threat to the residents of the property. The proposal is aiming to improve the overall look of the street and also facilitate not only the applicant needs but also reduce the parking in the area before the number of the residents increase dramatically due to a new building (the erection of the new flats that is in process replacing formerly listed pub). After installation of these alterations the street scene will be maintained and the part of the property that is at a critical state will be improved.'*
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Appeal B Ref: APP/E2205/Y/20/3257052

13 Barrow Hill Terrace, Barrow Hill, Ashford TN23 1NF

- 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 Ms Akvile Vanagaite against the decision of Ashford Borough Council.
- The application Ref 19/01261/AS, dated 30 August 2019, was refused by notice dated 20 May 2020.
- The works proposed are described on the appeal form as: *'Gate to the back exit The gates and the freestanding wall to the back garden of the No 13 property are in a bad state of disrepair and the current parking arrangements are not practical. The access to No.13 is continuously blocked by cars parking across the entrance denying bin collection, taking bicycles/motorbike out and enjoying free access to the property. It is impossible to install EV charging point which prevents the residents getting a cleaner mode of transportation. The proposal is to widen the existing opening and install a new*

gate that would keep the character features of the area and retain the sense of enclosure. This will solve the ongoing access problems for the residents of No 13; and would enhance the street scene by cars not parking the entire width of the road.

Decisions

Appeal A

1. The appeal is allowed and planning permission is granted for the erection of gates at 13 Barrow Hill Terrace, Barrow Hill, Ashford TN23 1NF in accordance with the terms of the application, Ref 19/01278/AS, dated 30 August 2019, subject to the conditions set out in Appendix A.

Appeal B

2. The appeal is allowed and listed building consent is granted for the demolition of wall and gate at the rear of the property to accommodate car parking area and a new gate at 13 Barrow Hill Terrace, Barrow Hill, Ashford TN23 1NF in accordance with the terms of the application Ref 19/01262/AS dated 30 August 2019 subject to the conditions set out in Appendix B.

Procedural Matters

3. This decision letter relates to two appeals; Appeal A relating to planning permission and Appeal B relating to listed building consent. Whilst subject to two different but related planning regimes, I have considered both in this single decision letter.
4. The descriptions used on the application forms are those cited in the header above. However they contain a significant level of detail. To provide clarity for all, I have used the description of development used on the decision notices.

Main Issues

5. The main issues are:
 - i) The effect of the proposal on the listed building and its setting, and;
 - ii) The impact of the proposed development on highway safety.

Reasons

Heritage

6. The appeal site comprises a Grade II listed building, No 13 Barrow Hill Terrace, which is an end of terrace building. It dates from around early to mid-19th Century, as detailed within the listing description. It is located in a cul-de-sac arrangement to the front and rear. To the rear are gardens which are separated from most of the rear of the terrace by a narrow passageway; typical of buildings of this type and date. To the end of the rear garden there is a wall of around 2 metres in height constructed of Kent rag stone and brick, with a timber pedestrian gate at one end.
7. The significance of the listed building derives from its age, its architectural style, and use of materials. The significance of nearby listed buildings, including at Barrow Hill Cottages and Barrow Hill Terrace, also derive from this. It is unclear as to the age of the wall at the end of the garden of No 13. Beyond the loss aesthetically and sense of enclosure, the Council have not

- clearly articulated the heritage significance or importance of the wall beyond it being part of the curtilage of the listed building. I see no reason to disagree, and consider the significance of the wall lies primarily in its enclosing aspects; though there are some aesthetic benefits of the rag stone and brick material use and how it relates to the wider street scene.
8. The Appellant seeks the removal of the wall to allow the insertion of timber gates and an off-road parking area. The appeal site is in a unique position within Barrow Hill Terrace, having no obvious area to the front for parking. The proposal would see a limited loss of the part traditional Kent rag stone and brick wall. Nonetheless, only a small part of the fabric of the wider wall would be removed.
 9. Moreover, the 'sense of enclosure' at this end of Barrow Hill Terrace would be maintained with the erection of timber gates. Such gates are not atypical within such boundaries; as is evidenced to the rear of some other dwellings at Barrow Hill Terrace. Whilst the proposal would result in the loss of some notable fabric in terms of the wall, this does not detract from the historic or architectural significance of the listed building or its setting.
 10. I note the history of the site and the views of a Council Officer from 1979 in relation to an improvement scheme and the acceptability of the parking spaces and turning head adjacent to the appeal site. I also note that permission was refused for a similar scheme under reference 18/01703/AS. I have not been provided with the full details of that scheme; but in both cases my remit is to consider the scheme before me now against the relevant planning policies at present. Moreover, the refusal of the application 18/01703/AS does not bind my assessment to any particular outcome in considering the scheme before me which I have considered on its own merits.
 11. In accordance with Sections 16(2) and 66(1) of the Planning and Listed Building and Conservation Areas Act 1990, as amended, and having special regard to the desirability of preserving listed buildings or their settings, I do not find that the proposals in this case would result in harm to such.
 12. Accordingly, I find that the proposed development and works would preserve the listed building and its setting. It would also preserve the setting of nearby listed buildings including those at Barrow Hill Terrace and Barrow Hill Cottages. It would therefore accord with Policies SP1, SP6 and ENV13 of the *Ashford Borough Local Plan 2030* (ABLP), which amongst other aims seek to conserve designated and non-designated heritage assets proportionate to their significance.
 13. It would also accord with the Policies of the *National Planning Policy Framework* (the Framework), including those set out in Chapter 16 – Conserving and enhancing the historic environment, which amongst other aims seek to ensure heritage assets are conserved in a manner appropriate to their significance.

Highway Safety

14. The Council's adopted *Residential Parking and Design Guidance SPD* - Adopted October 2010 (SPD) indicates that the SPD sets out guidance that is primarily applicable to the creation of new dwellings and whilst the guidance may be taken into account in extensions for dwellings (which is not the case here) it

- will need to be considered alongside other considerations such as development context and an assessment of harm to users of the public highway.
15. In this instance, the proposal seeks the erection of gates, behind which would be situated a parking area to serve the appeal site. The local planning authority has indicated their concerns over a lack of turning on site and that there would likely be a loss of one on-street parking space.
 16. However, the guidance within the Council's adopted SPD is clear in that it needs to be considered alongside other considerations including the development context. Whilst both parties have submitted various models of how vehicles using the parking area might turn, it would come as no surprise to the Appellant and the future users of the parking area that turning into and out of the parking area will be less easy than a site where there is not a narrow road.
 17. However, from my site inspection I was able to see that such arrangements are already necessary using the small turning head adjacent to the appeal site due to the 'no through road' status of this highway. The proposal is unlikely to make this situation any worse for all users of the public highway.
 18. Furthermore, whilst there would potentially be the loss of a parking space outside of the where the gates would be situated (given no double yellow lines outside of the existing wall), this would be replicated by the provision of a parking area; albeit on private land. I am reinforced in this view by the fact that the local highways authority did not formally object to the proposal. Moreover, the Officer's report to committee made much of the exact measurements required by the SPD including widths for two vehicles, yet it has articulated very little on the specific circumstances of the historic context of the appeal site and the fact that it is a no through road.
 19. I agree that the possible parking arrangements that would be provided through the provision of gates for which permission is sought would not necessarily be acceptable for a new residential development. However, that is not the case here where the buildings and street patterns have been in place for some time. Moreover, the Appellant is fully aware of the limitations of what is achievable on the appeal site in terms of future parking. It would be obvious to future occupiers that this is a characteristic of the locality; as can be seen by the relatively small turning head provided adjacent to the site.
 20. I do not find that the proposal would result in a net loss of on-road parking. Accordingly, I find that the proposal would broadly accord with Policies SP1, SP6, ENV13 and TRA3a of the ABLP as supported by the SPD. Amongst other aims these policies seek to positive response to flexibility and liveability, and ease of movement.
 21. It would also accord with the policies of the Framework including Paragraph 109 which sets out that in that development should only be prevented or refused on highway safety grounds if there would be an unacceptable impact on highway safety.

Other Matters

22. I note the concerns raised by interested parties in terms of heritage and highway matters. I have carefully considered these, and all other matters

raised. However, I do not consider that these justify the refusal of permission or consent in this instance.

Conditions

23. I have considered the Council's suggested conditions as set out in Appendix 4 of their Statement in light of Paragraph 55 of the Framework, and also the national Planning Practice Guidance.
24. A standard three-year time condition for implementation and for the development and works to be in accordance with the approved plans is necessary and reasonable to provide certainty. This is applicable to both Appeals A and B.
25. A condition requiring any gates to open inwardly is necessary in order to not restrict access on the public highway when the gates are opened. However, I note that the ways in which the gates open; shown variously as side hung in two sections in the original block plan and as a concertina style arrangement in four sections on the amended block plan. To address this a condition requiring further details is necessary and reasonable to provide certainty and avoid doubt. This is applicable to both Appeals A and B.
26. Lastly, a condition requiring the permanent retention of the parking area provided is necessary and reasonable in this case, given that this provision is to address the potential loss of a space on the public highway.

Conclusion

27. I have found that the proposed works and development would not result in harm to the listed building, or its setting, or those located nearby to the appeal site. Moreover, the proposal would not result in a net loss of parking provision within the locality.
28. Accordingly, as a matter of planning judgement, I find that the proposal would accord with the adopted development plan and there are no material considerations indicating a decision otherwise than in accordance with it.
29. For the reasons given above, I conclude that both appeals should be allowed subject to the conditions imposed in Appendices A and B.

Cullum J A Parker

INSPECTOR

Appendix A – List of conditions Appeal A

- 1) The development hereby permitted shall begin not later than three years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: Location plan and block plan, site plan showing location of wall, revised proposed block plan.
- 3) The parking area to be provided shall be kept available at all times for the parking of motor vehicles by the occupants of the dwellings and their visitors and for no other purpose.
- 4) Notwithstanding condition 2, the gates shall not be erected until details of the gates, including their appearance, materials, location and means in which they would open into the site, have been submitted to and approved in writing by the local planning authority. Thereafter development shall be carried out in accordance with the approved details, and the gates shall be retained to open inwards to the site only.

Appendix B – List of conditions Appeal B

- 1) The works authorised by this consent shall begin not later than three years from the date of this consent.
- 2) The works hereby permitted shall be carried out in accordance with the following approved plans: Location plan and block plan, site plan showing location of wall, revised proposed block plan.
- 3) Notwithstanding condition 2, the gates shall not be erected until details of the gates, including; their appearance colour, finish, materials, location and means in which they would open into the site, have been submitted to and approved in writing by the local planning authority. Thereafter works shall be carried out in accordance with the approved details, and the gates shall be retained to open inwards to the site only.

***** End of Conditions *****