
Appeal Decisions

Site visit made on 13 July 2021

by Benjamin Webb BA(Hons) MA MA MSc PGDip(UD) MRTPI IHBC

an Inspector appointed by the Secretary of State

Decision date: 09 August 2021

Appeal A: APP/D3830/W/20/3264926

Great Thorndean Barn, Slough Green Lane, Warninglid RH17 5SL

- 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 Stephen Moffett against the decision of Mid Sussex District Council.
 - The application Ref DM/20/2681, dated 28 June 2018, was refused by notice dated 30 November 2020.
 - The development proposed is described as alterations to plans for conversion of barn to residential.
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Appeal B: APP/D3830/Y/21/3266597

Great Thorndean Barn, Slough Green Lane, Warninglid RH17 5SL

- The appeal is made under section 20 of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the Act) against a refusal to grant listed building consent.
 - The appeal is made by Stephen Moffett against the decision of Mid Sussex District Council.
 - The application Ref DM/20/2688, dated 28 June 2018, was refused by notice dated 30 November 2020.
 - The works proposed are described as alterations to plans for conversion of barn to residential.
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Decision

1. Appeal A is dismissed.
2. Appeal B is dismissed.

Procedural Matters

3. As set out above, there are 2 appeals on this site. Each relates to the same scheme but they address separate applications for planning permission in the case of Appeal A, and listed building consent in the case of Appeal B. I have considered each on its individual merits, however, to avoid duplication I have dealt with the Appeals together, except where otherwise indicated.
4. Conversion of the barn, erection of a garage and related landscaping works were covered by a planning permission and listed building consent granted in 2017. The barn has since been converted, and landscaping carried out. However, the scheme as executed is non-compliant with the approved plans, and details approved through discharge of conditions. The applications subject of these appeals therefore seek to regularise the situation as it exists, with some further modifications proposed to the landscaping.

5. With regard to Appeal B, the Act requires that works to listed buildings are authorised. Works are authorised where written consent for them has been granted, and they have been executed in accordance with the consent and any conditions attached to it. It is an offence to do otherwise. That being so, if Appeal B was to be allowed, any consent granted would be for retention of the works only and would have no bearing on the legality of their execution.
6. It is apparent that the submitted plans do not correctly show the building as it currently exists. Discrepancies exist in relation to the main opening in the east elevation of the barn, which has been partly filled at the top; the doorway in the lean-to, whose top panel is of a different proportion to that shown; and the windows in the south elevation of the barn, which are not of the equal size shown. The relationship of openings to external ground levels is also inaccurate given that the plans do not take account of an evident increase in the height of internal floor levels. Other minor components such as vents, a boiler flue, lanterns and an aerial, are also not shown. Due to these discrepancies, were I to allow the Appeals, approval of the plans submitted would provide only partial regularisation of the works undertaken.
7. A revised version of the National Planning Policy Framework (the Framework) was published during the course of my determination of the appeals. The parties were given the opportunity to comment on the relevance of any changes, and I have taken any comments into account in determining the appeals.

Main Issues

8. The main issues are:
 - whether the scheme has preserved or would preserve a Grade II* listed building or its setting or any features of special architectural or historic interest which it possesses; and
 - the effect of the scheme on bats.

Reasons

Listed building

9. The building is entered into the statutory list as 'barn at the south west of Great Thorndean Farmhouse', and is Grade II* listed. It is therefore a designated heritage asset of the highest significance. In this regard paragraph 199 of the Framework states that great weight should be given to the conservation of designated heritage assets; the more important the asset, the greater the weight should be.
10. Insofar as it is relevant to these appeals, the special interest and significance of the listed building resides in the C17th date of the barn, to which later additions are attached; its historic construction, featuring a substantially intact timber frame; its historic function and character as an agricultural building; and in the latter regards, its historic relationship with other buildings historically associated with Great Thorndean Farm.
11. The timber frame of the building constitutes the majority of its surviving historic fabric. Prior to the conversion being undertaken the timber frame was fully exposed internally, and it was a both outstanding and defining feature of

the building. The frame was noted as being well preserved, notwithstanding some inappropriate renewal of components in softwood, and in this regard its condition was presumably due the fact that for several centuries it had been exposed to the air and kept dry.

12. As approved, the scheme was to have retained visibility of the framing in the walls through insertion of insulant and boarding between its individual components. Historic timber boarding in the north bay was also to have been retained. An inconsistent approach however appears to have been inadvertently approved in relation to the roof, where the application of boarding below the 'rafters' is clearly referenced in the schedule of works.
13. As carried out, both the majority of the framing in the walls, and some of the historic boarding, has been concealed beneath plasterboard and other modern finishes. The roof is no longer open to the apex, and boarding has also been patchily applied across some of the principal rafters, giving the trusses an oddly disjointed appearance. Consequently, it is no longer possible to either fully appreciate the historic construction of the building, or the larger part of its surviving original fabric. The loss of visual character is striking in its magnitude. In these regards the special interest of the listed building has clearly not been preserved. Nor is it clear that encasing the timber frame and historic boarding in modern insulant and plasterboard will preserve it materially due the change in environmental conditions this will cause.
14. The appellant states that it was necessary to adopt a different approach to that approved in order to achieve compliance with the Building Regulations, and furthermore, that the building would not have been inhabitable otherwise. Whilst compliance with the Building Regulations does not remove the need for works to be authorised, the Building Regulations otherwise necessarily acknowledge the need for sensitivity in upgrading listed, historic and traditionally constructed buildings. That is clearly not apparent in this case. In this regard I have not been provided with any evidence that the approach adopted was one that was required, or that other options, products or techniques have or were seriously considered. I therefore attach no weight to appellant's argument.
15. An example of Grade II listed timber framed barn where lining of the interior was apparently approved by the Council, has been cited. I have however been provided with limited details of the case, the works, and the Council's rationale. In any case, I see no reason why the lining of another building should be held to justify the harm which has specifically arisen in relation to the Grade II* listed building subject of this appeal.
16. Limestone floor tiles have been laid internally. These are in place of an approved floorboard finish. Whilst timber threshing floors are a feature of traditional barns, wall to wall floorboards are not. Where loose laid in the context of conversion they do at least allow scope for easy future removal. This flexibility does not exist in relation to stone tiles, however, unlike floorboards, stone tiled floors are sometimes a historic feature of high-status barns.
17. In this case I have not been provided with any indication of where the stone used was quarried. The Council has however stated that it is not a material which features within the local vernacular. In other words, use of the material within the context of a vernacular building such as the barn, is alien. No evidence to the contrary has been provided, however an example has again

been cited where the Council apparently approved use of limestone floor tiles within a barn. Full details are lacking. In any case, as with lining the interior, whether or not limestone tiles have been approved elsewhere, their extensive use within the barn in question cannot be considered complementary. In this regard further harm arises.

18. Prior to conversion, both gables of the barn were blank. This is a typical characteristic of traditional barns, which in this case would have seen significant change even in the context of the approved scheme. As undertaken, the openings at ground floor level in the north gable have both been rearranged, increased in number, and changed in character. The effect that this reorganisation has had on the underlying fabric of the timber frame is unclear, as construction details have not been provided. I cannot therefore be satisfied that the frame has been left intact. The increase in the number of openings has otherwise more greatly eroded the character of the north gable than would have the approved scheme. This is regardless of the small percentage increase in the amount of glazing.
19. Two doorways have been fitted with glazed doors with solid doors installed externally as 'shutters'. This follows the same broad concept as applied to the main opening in the east elevation of the barn. It allows the character of the opening to be retained whilst admitting light. The effect is nonetheless significantly undermined in the case of the glazed door installed in the east extension, given that it carries a domestic leaded design. The solid door installed over the glazed opening in the lean-to is meanwhile very awkwardly fitted, and relates poorly the opening in its modified state. In each regard therefore the works further detract from the character of the building.
20. The newly built west extension was to have adopted the guise of a converted shelter shed. Though the remains of a modern shelter previously stood on the site, it is unclear why the approved design was considered necessary or appropriate. As constructed, the extension has a somewhat generic agricultural character which purports to be nothing in particular. Whilst this appears to be a more 'honest' approach, where openings have been inserted which stop well short of floor level, the visual effect is nonetheless incongruous. This is because such openings suggest neither the character a doorway nor window, and so differ from any other opening within the listed building. Again, this modestly detracts from the character of the listed building as a whole.
21. The internal layout substantially differs from that approved. In this regard the Council has raised no objection to the changes. Relative to the approved scheme these have indeed reduced the extent of subdivision and cluttering of historic spaces, including that within the barn. This is a point in favour of scheme. However, it does not outweigh the harm I have identified above, with which changes in layout have little if any direct relationship. Indeed, in view of my findings above the works as carried out have, as a whole, failed to appropriately preserve special interest of the listed building or to conserve its significance.
22. As noted above, the listed building partly draws significance from its setting, including its association with other buildings forming part of the group historically associated with Great Thorndean Farmhouse. Changes in use have led to a weakening of historic relationships through loss of functional character, and the erection of boundaries.

23. The approved scheme would have seen the space between the barn and the former dairy opposite paved with a common hard surfacing and subdivided with estate fencing. This, in conjunction with placement of an access gate and garage would have helped to define and provide a farmyard-like character. I appreciate that this was to some extent contrived, but it would nonetheless have assisted appreciation of the physical and visual relationship between the buildings, and avoided domestication. The Council has raised no clear objection to the revised positions of the garage and gate. However, as implemented, the yard is laid with loose gravel, and a leylandii hedge has been planted along the boundary. Each domesticates the setting, and the boundary treatment more substantially severs the relationship between the buildings than would have a fence. This detracts from an appreciation of the significance of the listed building insofar as undermines perception of its historic functional character and context.
24. The appeal scheme seeks retention of loose gravel and installation of a cleft post and rail fence with hedge. A cleft post and rail fence would be a traditional form of boundary marker. However, once again, neither the gravel nor the hedging would complement or emphasise the historic functional character and context listed building. Considered as a whole therefore the above works have not preserved and would not preserve the setting of the listed building.
25. To the east of the barn the boundary between it and the historic farmhouse was again to have been marked by estate fencing, and in this case a laurel hedge. The rationale underpinning the latter is unclear, given its obvious domestic connotations. Again, a different approach has been adopted utilising leylandii. The appeal scheme essentially seeks reversion to the scheme as already approved, albeit using cleft post and rail fencing. In view of my findings above, this would have a neutral effect.
26. The Council has additionally identified harm to the setting of the dairy building, which is not itself listed, but is described as 'curtilage listed'. The principal listed building with which the Council considers the dairy is associated has not however been identified, and nor therefore has the contribution that the dairy is held to make to the special interest and significance of that building. I have otherwise been provided with insufficient evidence to reach a clear view on this matter. Insofar as the dairy otherwise forms a component of the historic group of which the listed building also forms part, the adverse effects of the scheme have been established above.
27. In view of my findings above the special interest and setting of the listed building has not been and would not be preserved by the scheme, contrary to the expectations of the Act. With reference to the Framework, I find that the scheme of works to the listed building has, as a whole, caused substantial harm to its significance. Paragraph 200 of the Framework makes clear that such harm in relation to a Grade II* listed building should be wholly exceptional. With regard to Appeal A, less than substantial harm to the significance of the listed building both has arisen and would arise through works within its setting. Such harm attracts considerable importance and weight. With reference to paragraphs 201 and 202 of the Framework, and given that the criteria set out within paragraph 201 do not apply, it is necessary to balance this harm against the public benefits of the scheme.

28. The Council has identified the provision of a new dwelling and new homes bonus as benefits. These benefits would however have been delivered by the approved scheme. They do not flow from the unauthorised elements of the scheme which give rise to the harm identified, and which are being balanced in this case. This is notwithstanding the appellant's claim that insulation in the manner undertaken was necessary to make the building habitable, which I have dealt with and rejected above. That being so I attach no weight to these benefits.
29. The Council also notes that the scheme, as undertaken, provides a sustainable future for the building. This is however inconsistent with its finding of harm, which indicates the opposite. The apparently optimum viable use of the building would have been delivered by the approved scheme, or could have been delivered by an alternative and more sensitive strategy than that adopted. Again, this applies to any claimed environmental benefit delivered by the insulation strategy adopted. As such I attach no weight to these considerations.
30. The works have otherwise served to benefit the occupants. As this is a private rather than public benefit, it again attracts no weight. Given therefore that I have not attached any weight to the identified public benefits of the scheme, it is clear the harm I have identified is not and would not be outweighed. This provides a clear indication that the appeals should be dismissed.
31. For the reasons outlined above I conclude that the scheme both has failed and would fail to preserve the Grade II* listed building, its setting and features of special architectural or historic interest that it possesses. With regard to Appeal A the scheme therefore both conflicts and would conflict with Policy DP34 of the Mid Sussex District Plan 2014-2031 (the Plan) which supports statutory duties set out within the Act in relation to planning permission. Both Appeal A and Appeal B both do and would otherwise conflict with the expectations of the Act, and heritage policy set out in the Framework.

Bats

32. Prior to conversion, historic parts of the listed building contained roosts used by pipistrelle, brown long-eared, and Natterer's bats, together with an unidentified species of Myotis bat. Bats are a protected species. All would have been adversely affected by the conversion scheme given disturbance and or loss of roosts.
33. The Council's fourth reason for refusal of the application subject of Appeal A, relates to the appellant's failure to demonstrate that necessary mitigation or compensation works were undertaken. In this regard the key pieces of evidence identified as lacking are a bat licence, and a statement from the supervising ecologist/wildlife consultant. The latter was to confirm that the works and associated mitigation and compensation requirements were completed in accordance.
34. The reason for refusal as such partly relates to the methodology adopted during conversion, which was outlined in draft within a submitted bat report. It is unclear whether this was the subject of a condition imposed on the previous permission. However, agreement of such matters would otherwise have been required in order to obtain a license for the works from Natural England, and thus to satisfy separate legislative requirements. As such, were Appeal A to be

allowed, this would not legitimise the way in which the works were undertaken if this was in breach of such separate legislation. Indeed, it would only to some extent regularise the works as they now physically exist.

35. In this regard the appellant indicates that a bat roost has been installed at the north end of the barn, in line with the recommendations in the bat report. The nature and location of access points however differs from the details shown on the plans submitted, and they were evidently installed sometime after the conversion was completed. Indeed, the access points were not present when the photo of the gable end included within the appellant's statement of case was taken.
36. As it is an offence to disturb bats, the only way to verify that the roost has been correctly installed is for confirmation to be provided from a licenced ecologist. As the bat report indicates that works to the roofs would require the direct supervision of such an ecologist, verification should presumably more straight forward to obtain than the appellant claims. No such verification has been provided. For this and the above reasons I cannot therefore be satisfied that the roost has been properly installed, or therefore that it has been or will be effective in mitigating the loss of pre-existing roosts which occurred during conversion.
37. For the reasons set out above I conclude that the appellant has failed to demonstrate that the scheme has mitigated or will mitigate the adverse effects that conversion of the listed building has had on bats. The scheme therefore conflicts with Policy DP38 of the Plan which seeks to secure development that protects and enhances biodiversity.

Other Matters

38. The site is located within the High Weald Area of Outstanding Natural Beauty (the AONB), within which there is a duty to have regard to the purpose of conserving and enhancing natural beauty. Relative to the approved scheme, the appeal scheme would not substantially alter the relationship that the listed building would have with its broader landscape setting. As such, the natural beauty of the AONB would be conserved.

Conclusion

39. The scheme as implemented and proposed both has caused and would cause unacceptable harm to the listed building. In relation to Appeal A, conflict arises with the development plan. There are no other considerations which alter or outweigh these findings. Therefore, for the reasons set out above, I conclude that Appeals A and B should be dismissed.

Benjamin Webb

INSPECTOR