
Appeal Decision

Site visit made on 23 September 2021

by Gary Deane BSc (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 13 October 2021.

Appeal Ref: APP/G2245/D/21/3270886

The Mount, Sparepenny Lane, Farningham DA4 0JH

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission under section 73 of the Town and Country Planning Act 1990 for the development of land without complying with conditions subject to which a previous planning permission was granted.
 - The appeal is made by Mr and Mrs Martin Gonella against the decision of Sevenoaks District Council.
 - The application Ref 20/03093/MMA, dated 27 October 2020, was refused by notice dated 21 December 2021.
 - The application sought planning permission for partial demolition of side extension. Erection of two side extensions without complying with a condition attached to planning permission Ref 20/02062/HOUSE, dated 14 September 2020.
 - The condition in dispute is No 3, which states that: The development hereby permitted shall be carried out in accordance with the following approved plans and details: PA_21, PA_26, PA_27, PA_28.
 - The reason given for the condition is: For the avoidance of doubt and in the interests of proper planning.
-

Decision

1. The appeal is dismissed.

Background

2. The proposal is to amend a recently approved scheme to extend and alter the Coach House, which is a detached building in use as a dwelling at the rear of a large house called The Mount. It is common ground between the main parties that the Coach House falls within the setting of The Mount, which is a listed building. The Council additionally considers that the Coach House is within the wider setting of Mount Pleasant, which is also a listed building that stands to one side of The Mount.
3. Specifically, a new garden pavilion is proposed with a glazed link that would attach to the north facing elevation of the Coach House. It is put forward as a minor material amendment (MMA) to the approved development. Revised drawings accompany the proposal that would replace those listed under condition 3 of the original planning permission if the appeal were to be allowed.
4. The Council contests this approach. It considers that the proposal does not constitute an MMA because it is substantially different to the approved scheme.

Main issue

5. The main issue is, therefore, whether or not the proposal is an MMA.

Reasons

6. There is no statutory definition of an MMA. The Planning Practice Guidance does, however, note that an MMA is likely to include any amendment where its scale and/or nature results in a development that is not substantially different from the one which has been approved. Against that background, it seems to me to be relevant to consider the degree or extent of the proposed alteration and the scale of the change sought in relation to the approved scheme.
7. The development permitted, as stated on the original permission, is a "Partial demolition of side extension. Erection of two side extensions". That an additional (third) extension is now proposed would, to my mind, require an alteration to the description of development on the original permission. This is significant because an application or appeal under s73 of the Act may not be used to obtain a permission that would require a variation to the terms of the 'operative' part of the planning permission ie, the description of the development for which planning permission had originally been granted. To reiterate, the description of development in an existing planning permission cannot be amended under s73. Only the conditions can be varied.
8. I acknowledge that the approved development is described more generally on the application form lodged with the Council, which is stated as the 'extension and alteration of the Coach House'. However, the description of development specified in the decision is that taken from the original planning permission.
9. I agree that the new pavilion and link would be a single storey addition. The use of glazing, as proposed, would also give it a lightweight appearance. However, it would still be a significant addition. It would introduce additional built form to one side of the host building where none exists at present. Compared to the approved scheme, the form, footprint, shape and scale of the finished building would noticeably differ to that of its approved counterpart.
10. Taking these points together, I conclude on the main issue that the nature and scale of the proposal would cause it to be substantially different to the approved scheme. On that basis, the proposal does not constitute an MMA.

Other matters

11. The Council raises additional concern that the proposal would harm the setting of The Mount and Mount Pleasant, which are both large detached dwellings of traditional style that stand within landscaped plots within the village of Farningham. The Mount dates from about 1820 while Mount Pleasant dates from about 1720. Both buildings are of considerable historical, architectural and visual merit and have a distinguished presence in the local area.
12. As there is limited inter-visibility between the Coach House and Mount Pleasant with established vegetation and a tall boundary wall between them I doubt the proposal would have a significant effect on the setting of this listed building. In contrast, on the approach to the Coach House from the northwest, along the driveway, the new pavilion and link would be clearly evident with the rear elevation of The Mount beyond even with landscaping, a gate and boundary features in place. When seen from this direction, the proposal would draw the eye, as the garden pavilion and link would project noticeably outwards from the host building and stand in the foreground to The Mount. In doing so, the proposal would visually compete for attention with this listed building and

detract from its setting. As a result, the significance of The Mount as a designated heritage asset would be significantly diminished.

13. I acknowledge that the Coach House is not identified in the listing and that it has its own access and garden that are separate to The Mount. Even though the rear elevation of The Mount is away from public view, and more functional than other facades, key features such as the fenestration, tall chimneystacks, built proportions, roof form and detailing still form an attractive composition. When seen from the northwest, the building is legible as a large home of some standing with features that are of special interest. As such, the rear elevation of The Mount is still sensitive to change. I do note that the Council has recently approved a new extension and conservatory/orangery at the rear of The Mount, which differs in design, scale and position to the proposal.
14. I also appreciate that outbuildings and built accretions would have historically occupied part of the grounds of The Mount and that the shape of the Coach House has changed over time. However, that incremental process does not in itself justify a visually intrusive form of development.
15. Given the scale of the proposal, the harm caused by the proposal on the significance of The Mount as a designated heritage asset is less than substantial. In those circumstances, the National Planning Policy Framework (the Framework) states that the harm should be weighed against the public benefits. No public benefits are put forward and none would outweigh the harm that I have identified. Although the proposal would visually contain the parking area to the Coach House, thereby screening vehicles in views from the upper windows of The Mount, this would be regarded as private benefit.
16. On this issue, I conclude that the proposal would adversely affect the setting of The Mount, which would fail to be preserved. As such, it is contrary to Policies SP1 of the Council's Core Strategy and Policy EN4 of its Allocations and Development Management Plan. Together, these policies aim to ensure that development protects, conserves or enhances heritage assets and their settings. The appeal scheme also conflicts with the Framework with regard to protecting heritage assets and with the statutory duty. This duty requires that special regard is paid to the desirability of preserving the listed building or its setting or any features of special architectural or historic interest.
17. The Council raises no objection in relation to the location of the proposal within an Area of Archaeological Potential, an Area of Outstanding Natural Beauty, a Conservation Area, Green Belt¹ and a Biodiversity Opportunity Area. From the submitted evidence, I have no reason to reach a different view.
18. Interested parties raise additional objections relating to earthwork, biodiversity and the boundary of the property. These are all important matters and I have taken into account all of the submitted evidence. However, given my findings set out above, these are not matters on which my decision has turned.

Conclusion

19. Nevertheless, for the reasons given above, and taking into account all other matters raised, I conclude that the appeal should be dismissed.

Gary Deane

INSPECTOR