
Appeal Decisions

Site visit made on 25 October 2022

by David Prentis BA BPI MRTPI

an Inspector appointed by the Secretary of State

Decision date: 28 October 2022

Appeal A: APP/M2270/W/21/3288547

Middle House, Talbot Road, Hawkhurst, Cranbrook TN18 4NH

- 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 Michael George against the decision of Tunbridge Wells Borough Council.
 - The application Ref 21/03323/FULL, dated 30 September 2021, was refused by notice dated 1 December 2021.
 - The development proposed is described as *retention of existing rooflight to rear elevation*.
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Appeal B: APP/M2270/Y/21/3288557

Middle House, Talbot Road, Hawkhurst, Cranbrook TN18 4NH

- 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 Mr Michael George against the decision of Tunbridge Wells Borough Council.
 - The application Ref 21/03324/LBC, dated 30 September 2021, was refused by notice dated 25 November 2021.
 - The works proposed are described as *retention of existing rooflight to rear elevation*.
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Decision – Appeal A

1. The appeal is allowed and planning permission is granted for a rooflight in the rear elevation at Middle House, Talbot Road, Cranbrook TN18 4NH in accordance with the terms of the application, Ref 21/03323/FULL, dated 30 September 2021 and the plans submitted with it.

Decision – Appeal B

2. The appeal is allowed and listed building consent is granted for retention of existing rooflight to rear elevation at Middle House, Talbot Road, Cranbrook TN18 4NH in accordance with the terms of the application Ref 21/03324/LBC, dated 30 September 2021 and the plans submitted with it.

Preliminary matters

3. Appeal A refers to the “*retention of existing rooflight to rear elevation*”. I saw that the works described in the application plans had been carried out at the time of my visit. However, as retention is not in itself an act of development, I have treated Appeal A as a proposal for a rooflight in the rear elevation. Section 8(3) of the Planning (Listed Buildings and Conservation Areas) Act 1990 makes provision for authorisation of works for the alteration of a listed building after such works have been carried out. I have treated Appeal B as an application for retention of an existing rooflight in the rear elevation.

4. Appeal B is against a refusal to grant listed building consent. However, the Council's decision notice refers to refusal of planning permission. The Council accepts that there was an error in the decision notice and confirms that the intention was to issue a refusal of listed building consent. The Council and the appellant have made their respective cases on the basis that the Council did in fact refuse listed building consent.
5. I have concluded that determining Appeal B as it stands would not cause prejudice to any party. This is because either the Council's decision notice does amount to a valid determination, notwithstanding the error, or there was no valid determination, in which case the appeal could be treated as if it were against a failure to determine the application within the prescribed period. No party has objected to the appeal being determined on the basis of the statements before me.
6. The appellant contends that listed building consent is not required for the rooflight in question on the basis that, in his view, Middle House is not a listed building. Middle House is not listed in its own right. It is one of three dwellings formed within a former butcher's shop attached to The Old Chestnuts (a Grade II listed house). The Council considers that all three dwellings should be regarded as listed by virtue of being within the curtilage of The Old Chestnuts at the date of listing (1989). Such buildings are sometimes referred to as "*curtilage listed*".
7. I note that both planning permission and listed building consent were granted for the scheme of conversion, pursuant to applications submitted in 2015. Subsequently, planning permission and listed building consent were granted for a single storey rear extension and a new front door to Middle House, pursuant to applications submitted in 2019.
8. Whilst I note the history of previous applications, the information submitted with this appeal in relation to past use and ownership is not sufficient for me to express a view as to whether or not Middle House is curtilage listed. I have concluded that it would not be proportionate for me to extend the appeal process by seeking further information on these matters. This is because my view on the merits, and hence the outcome of Appeal A, would be the same whether or not Middle House is curtilage listed.
9. The appellant sought listed building consent, which was refused by the Council. Appeal B is an appeal against the refusal of listed building consent. I have therefore determined Appeal B on the basis that it was submitted and I shall not comment further on the need for listed building consent.
10. The appeal site is within the Hawkhurst Conservation Area and the High Weald Area of Outstanding Natural Beauty (AONB). The Council has not alleged any harm to either the conservation area or the AONB. I agree that there would be no such harm because the rooflight is not widely visible from locations outside the appeal property itself.
11. The appeals relate to a listed building and are within a conservation area. I have therefore had special regard to sections 16(2), 66(1) and 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (as appropriate) in determining the appeals.

Main issue

12. The main issue, for both appeals, is the effect of the rooflight on the special interest of the listed building.

Reasons

13. The Old Chestnuts¹ is a Grade II listed building which the listing description notes dates from around 1800. It is a two storey house, attached to Floral Cottage (which is separately listed) on one side and The Old Shop (part of the conversion scheme described above) on the other. It has both architectural and historic interest as a well preserved example of the architecture of that period. Its setting, as part of a coherent frontage of buildings facing Talbot Road, adds to its significance.

Effect on The Old Chestnuts

14. As the rooflight in question is in the rear elevation, it has no effect on the Talbot Road elevation of The Old Chestnuts, which is the main way in which the listed building is appreciated from the public realm. The rear elevation of The Old Chestnuts is not readily visible from the public realm. It can be seen from its own back garden and from the backs of nearby properties. Those views are unaffected by the rooflight at Middle House. Whilst it is possible to see both the back of The Old Chestnuts and the rooflight from within the back garden of Middle House, in any views towards The Old Chestnuts the rooflight is a minor and peripheral feature. I conclude that the proposal has no effect on The Old Chestnuts itself.

Effect on The Old Shop, Middle House and Woods Cottage

15. These three dwelling were formed from the conversion of a butcher's shop and attached outbuildings. The scheme of conversion has retained the shopfront to The Old Shop and made only limited changes to the Talbot Road elevation of the outbuildings. To my mind, the conversion has been carried out in a sensitive manner, such that the buildings continue to make a positive contribution to the setting of The Old Chestnuts and the street scene generally. The rooflight has not resulted in any change to the Talbot Road elevation.
16. The rear elevation is more domestic in character, including glazed doors, individual rear gardens and some rooflights. The Old Shop has been extended to the rear, with a tall gable facing the back garden. The rear elevation of the three dwellings is not widely visible from the public realm, although there are glimpsed views from The Chestnuts, a cul-de-sac to the north of the site. There is a pair rooflights in the north east facing roof slope of The Old Shop which is visible in these views. Although the rooflight which is the subject of the appeal can also be seen, it is much less prominent than those on The Old Shop because it is set low down on the roof slope.
17. The rooflight can be seen from the garden of Middle House and adjoining gardens. The frames are in a dark material, the colour and tone of which are sympathetic to the clay tile roof and similar to an adjoining rooflight in the rear elevation of Woods Cottage. It has been carefully sited, so as to align with the adjoining rooflight. The two openings read as a pair, in much the same way as the more prominent pair in the roof of The Old Shop. As noted above, they are

¹ Referred to in the listing description as The Chestnuts, Talbot Road

set well down from the roof ridge, so that the upper part of the roof slope is unbroken. In my view the rooflight does not result in a cluttered roofscape.

18. My overall assessment is that the scheme of conversion has struck a well-judged balance between the character and form of these former commercial buildings and their new use as dwellings. That balance is, sensibly, more domestic in character on the less visible rear elevation. I do not consider that the rooflight in question has materially altered that balance. It does no harm to the architectural or historic interest of The Old Shop, Middle House or Woods Cottage.

Other matters

19. The Council and the appellant disagree about the need for the rooflight, having regard to the amount of daylight in a bedroom within Middle House and the requirements of the Building Regulations. An interested party has queried the appellant's comments in relation to the Building Regulations. However, as I do not consider that the rooflight causes any harm, it is not necessary for me to comment on these matters.

Conditions

20. No conditions are necessary in relation to either appeal because the rooflight is in place.

Conclusion

21. The rooflight does not result in harm to the special interest of the listed building, which would be preserved. There would be no conflict with Core Policy 4 of the Council's Core Strategy, which seeks to conserve heritage assets. Both appeals should therefore be allowed.

David Prentis

Inspector