



Appeal Decisions

Site visit made on 6 June 2023

by **S M Holden BSc (Hons) MSc CEng MICE CTPP FCIHT MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 7 July 2023

Appeal A Ref: APP/B1415/W/22/3295129

Flat 2, 12 Maze Hill, St Leonards on Sea TN38 0BA

- 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 Bruce Allum against the decision of Hastings Borough Council.
 - The application Ref HS/FA/21/00166, dated 4 February 2021, was refused by notice dated 27 September 2021.
 - The development proposed is construction of 5 timber units (garages) in the rear garden (retrospective).
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Appeal B Ref: APP/B1415/Y/22/3293066

Flat 2, 12 Maze Hill, St Leonards on Sea TN38 0BA

- 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 Bruce Allum against the decision of Hastings Borough Council.
 - The application Ref HS/LB/21/00167, dated 4 February 2021, was refused by notice dated 27 August 2021.
 - The works proposed are construction of 5 timber units (garages) in the rear garden (retrospective).
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Decisions

1. Both appeals are dismissed.

Preliminary Matters

2. The two appeals concern the same scheme under different, complementary legislation. The description on the application form for planning permission was: '5 units made of timber at the rear of garden'. For the avoidance of doubt, I have used the revised description agreed between the parties in the above banner heading and have dealt with both appeals together in my reasoning.
3. The garages have been partially constructed. However, I have based my determination of the appeals on the submitted plans.

Main Issues

4. The main issues are in relation to **both appeals** are:
 - a) whether the scheme would preserve or enhance the character or appearance of the Burton St Leonards Conservation Area (BStLCA).
 - b) the effect of the proposal on the setting of 9-12 Maze Hill, 13 Maze Hill and 1-4 Maze Hill Terrace, which are Grade II listed buildings and

- c) the effect of the proposed works and development on the special architectural and historic interest of the curtilage listed boundary wall between 12 Maze Hill and 1 Maze Hill Terrace.

In relation to **Appeal A** there is an additional main issue regarding the effect of the development on highway safety.

Reasons

Appeals A and B: Effects on designated heritage assets

Significance

5. The Burton St Leonards Conservation Area (BStLCA) is the planned Regency new town of St Leonards designed by James Burton and constructed in the 1830s. It derives its significance from the skilful integration of large loosely and irregularly grouped buildings with the surrounding landscape and its varied and steeply sloping topography. The area is characterised by its axial planning, close to the seafront with the Royal Victoria Hotel as a focal point, behind and above which is an informal layout of meandering streets centred on St Leonards Gardens.
6. No 12 is a part of the Grade II listed terrace of properties, Nos 9-12, which formed the core of this new town. The terrace is Tudor Gothic style, 4 storeys tall, plus a basement, and 6 bays wide with 3 projecting bays. No 12 therefore derives its significance from its grand scale and other architectural details, its setting directly overlooking St Leonards Gardens and its good-sized rear garden enclosed on both side boundaries by sandstone walls. These original boundary walls, which are deemed curtilage listed, and the gardens of the entire terrace make a positive contribution to the significance of the properties as houses for wealthy residents of the period. To the rear the plots of Nos 11 and 12 extend to Mews Road and Maze Hill Terrace where there is a group of flat-roofed garages and space to park cars off-street. These would appear to date from the mid-20th century, are utilitarian in appearance and detract from the character and appearance of the BStLCA and the setting of the surrounding listed buildings.
7. Immediately to the north is No 13, a detached Tudor Gothic style villa, also Grade II listed and constructed by James Burton, dating from 1830-1850. Its setting is focused on its garden, which is enclosed by mature vegetation and extends to the north and the junction with Maze Hill Terrace. As one of the few dwellings directly overlooking St Leonards Gardens, this relationship is also an important element of its setting.
8. 1-4 Maze Hill Terrace is a stuccoed 3 storey terrace built around 1850, by Decimus Burton, the son of James Burton. Its significance derives from the colour of its elevations, its classic proportions and the uniformity of its fenestration patterns, on both its front and rear elevations. These features, combined with its siting on ground well above Maze Hill, make the building a prominent feature which not only dominates Maze Hill Terrace but also overlooks the gardens of Nos 9-12 and No 13. By contrast to the size of the building each house within this terrace only has a small rear garden. The proportions and features of the building are therefore experienced from the street and from the rear of the properties in Maze Hill which fall within its setting.

Assessment

9. The proposed garages would be of modest proportions when compared with the listed buildings. Neither would they be widely visible from the public realm as they would be screened by the existing garages. However, the structure would occupy almost the full width of No 12's plot. Only the narrow gap for the footpath through the garden constructed of high-quality stone, including its steps, would be retained.
10. The scale and the bulk of the garages would be an alien and intrusive feature inserted into the area of residential gardens which contributes to the significance of the BStLCA. The garden of No 12, although somewhat overgrown, is an important feature of the property with its terraces, flower beds, pond and summer house built into the northern boundary wall. Even though there would be no loss of historic fabric, the proposal would reduce the size of the garden and erode the verdant setting of both listed terraces. This would be harmful to an area whose mature gardens reflect the historic layout of this part of the BStLCA. The utilitarian design and proposed materials of the timber garages would jar with the high-quality materials used elsewhere in the vicinity and would be out of keeping with the surrounding historic environment. They would also be more visually intrusive from the rear of Nos 11, 12 and No 1 than the existing, poor-quality garages. Neither are they directly comparable with the garages constructed to the rear of Nos 9 and 10.
11. Consequently, the scheme would fail to preserve the character and appearance of the BStLCA and the setting of 9-12 Maze Hill and 1-4 Maze Hill Terrace, both of which are group listed. However, in my view the more enclosed setting of No 13 would be unaffected by the proposal. Although in terms of the National Planning Policy Framework (the Framework) the identified harm would be less than substantial, this still amounts to a significant objection.
12. The proposed garages would be sited immediately adjacent to a section of wall that marks the boundary between No 12 and No 1. This wall not only screens and separates the gardens but also performs the function of a retaining wall to accommodate the difference in levels between the two plots. It is constructed of sandstone blocks with a cap and therefore has both architectural and historic interest. Given its age, it is unsurprising that in some places it leans, there is evidence of water penetration and parts of it have failed.
13. The section nearest Mews Road is in a poor state of repair and leans towards the appeal site. The section adjacent to the proposed garages has failed and the lower section, which is required to contain the ground, has been partially reconstructed in block work. The upper part has been replaced with a close boarded fence. I understand that the appellant intends to face the wall with sandstone. However, the proposal which is the subject of this appeal does not include any works to the wall and is not a matter for me to consider.
14. The submitted plans show that the outer wall of the proposed garages would be hard up against a section of the wall that needs to be repaired. It seems to me that the reconstruction and subsequent maintenance of the wall would be difficult, if not impossible with the garages in place. It has been suggested that as the garages would be constructed of timber, the end panel could be removed for maintenance purposes. I consider this to be unrealistic and impractical. Consequently, erection of the garages would be likely to lead to loss of, or significant harm to, a section of this historic wall.

15. The full length of the wall on the northern boundary of the appeal site runs from the rear elevation of No 12 through to Mews Road and is an important part of the fabric and layout of this part of the BStLCA. The part of the wall which has failed, and would be affected by the proposal, is only a short section of this wall. The section closest to the rear elevations of Nos 12 and 13 has been rebuilt using appropriate materials thereby retaining the significance of the whole wall. Other sections would appear to be capable of restoration. Consequently, the loss of, or the inability to restore and retain, a section of the wall would be harmful to its significance as a curtilage listed structure. This would also adversely affect the contribution the wall makes to the character and appearance of the BStLCA. Although in terms of the Framework I consider this harm to be less than substantial, it still amounts to a significant objection.

Public benefits and heritage balance

16. I have found that the proposal would cause less than substantial harm to the BStLCA, the setting of the listed terraces, 9-12 Maze Hill and 1-4 Maze Hill Terrace, and the curtilage listed boundary wall between No 12 and No 1. It is therefore necessary for me to weigh these collective harms against the public benefits of the proposal, as required by paragraph 202 of the Framework.
17. The proposal would provide additional parking in an area where off-street parking is limited and there is some reliance on on-street parking. However, as the garages would only be available to occupants of No 12, this would be a private benefit. There are therefore no public benefits arising from the scheme to weigh against the identified harm.
18. This leads me to conclude that the development would fail to preserve the character and appearance of the BStLCA and the setting of the surrounding Grade II listed terraces in Maze Hill and Maze Hill Terrace. In addition, the works would harm the special architectural and historic interest of the boundary wall. This would be contrary to the Planning (Listed Buildings and Conservation Areas) Act 1990, which requires me to have special regard and pay special attention to these designated heritage assets. The proposal would also fail to comply with paragraph 199 of the Framework which states that great weight should be given to conserving the significance of designated heritage assets.
19. Furthermore, the proposal would conflict with Policies HN1 of the Hastings Development Management Plan (HDMP) and Policy EN1 of the Hastings Planning Strategy. These policies seek to promote high quality design, to preserve the character, appearance, and special interest of the Borough's listed buildings, and to preserve or enhance the character and appearance of its conservation areas. Policy HN2 cited in the Council's decision notice is not relevant to this proposal as it relates to changes to doors, windows and roofs in conservation areas.

Appeal A: Effects on highway safety

20. At present cars park on the hard surfacing in front of the garages to the rear of No 12. They almost certainly enter the highway by reversing into the road near the junction of Mews Road with Maze Hill Terrace. This is not a layout that meets modern design standards. However, traffic flows and speeds are low and there was no evidence to suggest that there have been any crashes or injuries involving vehicles or pedestrians in recent years.

21. The proposed access would be through one of the existing garages. There would be room to turn a car around on the site which would enable them to exit in a forward gear. As the proposed access would be narrow and with restricted visibility at both ends, there would be a small risk of collision between vehicles trying to enter and leave the site at the same time. However, this could only occur between vehicles travelling at very low speeds and it is likely that regular users of the site would take care and be familiar with the arrangement.
22. I note that the highway authority requires an access serving multiple dwellings to be a minimum width of 4.5m to accommodate two-way movements. However, given the existing situation and the context of this proposal outlined above, I do not consider that would be necessary in this case. If anything, it could increase the risk of vehicles entering and leaving the site at higher speeds than they would do so otherwise.
23. Taking all these factors into account, I conclude that the proposal would not cause unacceptable risks to highway safety. It would therefore comply with Policy DM4 of the HDMP, which requires safe access for all users to be provided into and within residential development.

Conclusion

24. Notwithstanding my conclusion in relation to highway safety in respect of Appeal A, I have found that the proposal would be harmful to the significance of a series of designated heritage assets. These comprise the Burton St Leonards Conservation Area, the setting of Grade II listed buildings, 9-12 Maze Hill and 1-4 Maze Hill Terrace, and the curtilage listed boundary wall between No 12 and No 1. The proposal would therefore be contrary to the Act, the advice of the Framework and the development plan.
25. I therefore conclude that Appeals A and B should be dismissed.

Sheila Holden

INSPECTOR