



Appeal Decision

Site visit made on 3 November 2023

by N Perrins BSc (Hons), MSc, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 08 December 2023

Appeal Ref: APP/E2205/D/23/3327423

Mersham Manor, Church Close, Mersham, Kent TN25 6NR

- 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 W Puxley against the decision of Ashford Borough Council.
 - The application Ref: PA/2023/0555, dated 31 March 2023, was refused by notice dated 5 July 2023.
 - The development proposed is for variation of condition 5 and removal of condition 6 on planning permission 22/00602/AS (variation of condition 9 (approved plans) on planning permission 19/01602/AS to alter materials, height and footprint of the annexe) to alter approved drawings retaining oak effect joinery.
-

Decision

1. The appeal is dismissed.

Preliminary Matters

2. I have been provided with relevant planning history, including details of planning permission being granted on appeal in 2018¹ for the annexe building referred in this decision. There have been two subsequent amendment planning permissions to vary materials and to regularise the height of the annexe as built at the site. Of particular relevance to this appeal, decision Ref: 22/00602/AS included reference to plans showing the windows to be constructed with solid oak and Condition 6 requiring compliance with the approved plans within 6 months of the decision, which has since lapsed. This appeal seeks to remove condition 6 and amend the approved plans to enable the retention of the oak-effect windows that have been installed at the site. In this context, I have used the description of development used by the Council on its decision notice rather than that as originally applied for as that more accurately reflects the development before me.

Main Issues

3. The main issue is the effect of the proposal on the architectural or historic significance of listed buildings and their settings.

Reasons

4. The appeal development is an annexe building within the grounds of the Grade I Listed Mersham Manor house, which is among the most significant buildings in the country in terms of historic or architectural interest. The appeal site is also close to a Grade I listed Church to the east and the Grade II* listed Court

¹ Appeal Ref: APP/E2205/D/18/3195488

Lodge Barn to the west. The buildings have group value in addition to their individual significance.

5. Section 66(1) of the Listed Buildings and Conservation Areas Act 1990 requires special regard to be had to the desirability of preserving listed buildings or their settings or any features of special architectural or historic interest which they possess. Section 16 of the National Planning Policy Framework (the Framework) sets out the provisions for protecting designated heritage assets such as those affected by the appeal proposal. Paragraph 199 of the Framework confirms that great weight should be given to conserving the significance of a designated heritage asset.
6. As referred above, the annexe building was allowed at appeal where it was found that the development resulted in less than substantial harm to designated heritage assets. However, this harm was balanced against the overall benefits, which were significant and enabled planning permission to be granted in accordance with Paragraph 202 of the National Planning Policy Framework (the Framework)². The significant benefits were the removal of buildings harmful to the setting of the listed buildings and securing the continuing viable use of the listed manor house with provision of a modern and well-designed annexe.
7. The external structure of the annexe building has now been substantially completed along with the installation of the oak-stained UvPC windows subject of this appeal. I note the appellant considers that the benefits that were conclusive in the previous appeal should still apply in the consideration of the development before me. However, the annexe considered by the previous inspector was different in that it had a lower height and proposed to use grey powder-coated aluminium windows. The removal of the previous harmful buildings has also already occurred and in that respect, this benefit has been achieved and no longer be available to be considered in this appeal.
8. The previous inspector attached a materials condition to the planning permission to require details of materials to be subject to a further approval process to ensure the quality of the development in this sensitive location. It follows therefore that the previous inspector did not envisage a situation where there would be no further control required by the local planning authority on details, such as the windows, to ensure the best possible development could be achieved in a situation where less than substantial harm to the designated heritage assets had been established.
9. Whilst I agree with the appellant that there are a range of different window types being used on the other existing buildings, they are of traditional design with subtle appearance that do not divert attention away from the overriding architectural and historic quality of the host structure and their settings. In contrast, the windows in the annexe appear as prominent and noticeable due to their colour and resulting bright appearance. This contrasts with the more subtle colours and designs used on the other buildings within the site nearby meaning they stand out and are distinguishable, which results in harm to the overall design context of the site.
10. The appearance of the oak finish windows in terms of the colour palette used does, therefore, result in an additional aspect of harm to the designated

² This was Paragraph 134 of the National Planning Policy Framework published at the time of the appeal decision.

heritage assets that didn't exist when the annexe was previously considered at appeal. I do not agree that the significant benefits that existed at the time of the previous appeal automatically carry forward to this appeal and overcome the harm identified, as a more appropriate window design and palette could be used. The window design also does not materially affect the annexe's ability to secure the continuing viable use as again, a more appropriate design could be used.

11. Whilst I consider the colour and notable appearance of the windows to harmful, the type that has been used would otherwise be suitable in their size and dimensions. These matters are, however, not sufficient to overcome the harm I have identified.
12. In summary and for the reasons set out, the appeal proposal would harm the designated heritage assets and is not in accordance with Policy SP1, SP6 and ENV13 of the Ashford Local Plan 2030 adopted February 2019 (the Local Plan), which amongst other things require development to conserve and enhance designated heritage assets, to be of high quality of design and where less than substantial harm would occur weighing this against public benefits and securing the optimum viable use of the heritage asset. The appeal proposal would also not be consistent with Chapter 16 of the National Planning Policy Framework (the Framework), which states at Paragraph 199 that great weight should be given to a designated heritage assets conservation. Moreover, Paragraph 202 sets out that where development will lead to less than substantial harm, this harm should be weighed against the public benefits of the proposal, which for the reasons have not been identified in this case.

Other Matters

13. I note from the representations received that concerns have been raised about the retrospective nature of the development. Whilst these are noted, the appeal must be determined on its own merits against the relevant planning policy and legislative considerations as set out in this decision.

Conclusion

14. For the reasons given above, the proposal is not consistent with the policies of the development plan due to the harm that arises to designated heritage assets. There are no material considerations that would lead me to a different conclusion and I determine that the appeal should be dismissed.

N Perrins

INSPECTOR