



Appeal Decisions

Site visit made on 5 March 2024

by I A Dyer BSc (Eng) FCIHT

an Inspector appointed by the Secretary of State

Decision date: 24 April 2024

Appeal A: APP/U2235/W/23/3323573

58 Lower Stone Street, Maidstone, Kent ME15 6NA

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
 - The appeal is made by Mr I Hoque against the decision of Maidstone Borough Council.
 - The application reference is 23/500715/FULL.
 - The development proposed is installation of a security roller shutter.
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Appeal B: APP/U2235/Y/23/3323578

58 Lower Stone Street, Maidstone, Kent ME15 6NA

- The appeal is made under section 20 of the Planning (Listed Buildings and Conservation Areas) Act 1990 (as amended) against a refusal to grant listed building consent.
 - The appeal is made by Mr I Hoque against the decision of Maidstone Borough Council.
 - The application reference is 23/500716/LBC.
 - The works proposed are installation of a security roller shutter.
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Decisions

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

Preliminary Matters

3. Since the determination of these applications, the Government published a revised National Planning Policy Framework (the Framework) on 19 December 2023 and updated it on 20 December 2023. Those parts of the Framework most relevant to these appeals have not been amended. As a result, I have not sought further submissions on the revised Framework, and I am satisfied that no party's interests have been prejudiced by taking this approach.
4. Also, during the course of these appeals, on 20 March 2024, the Council adopted the Maidstone Borough Council Local Plan Review 2021-2038 (the LPR). As we are in the 6-week period in which the new development plan can be the subject of a legal challenge following adoption, the policies in the LPR attract substantial, rather than full weight.
5. The LPR replaces the Maidstone Borough Local Plan (2017) (the LP), however some of the adopted policies of the LP are still relevant and have been retained. The Council has provided a list of those policies of the LPR that they consider to be most relevant in the determination of the appeals. The appellant has been provided the opportunity to comment and thus I do not consider that any injustice would result to any party by my taking the LPR into account in my decision.

6. As the appeals relate to listed buildings and a Conservation Area I have had special regard to sections 16(2), 66(1) and 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (as amended) (the Act).

Main Issues

7. The main issues are: -

- Whether the proposal would preserve the Grade II listed building, "58-68, Lower Stone Street" (Ref: 1224710) (the LB), a Grade II listed building, and any of the features of special architectural or historic interest it possesses; and:
- The extent to which it would preserve or enhance the character or appearance of the Maidstone Centre Conservation Area (the CA).

Reasons

8. The CA covers an area encompassing most of the mediaeval core of Maidstone. The appeal site lies on the edge of the CA. Whilst the buildings to either side of the appeal site lie within the CA, the opposite side of the street lies outside.
9. The CA is highly urbanised, with a dense urban form reflective of its history as an important settlement. It still exhibits many of the features and forms of the traditional medieval market town and a gridded street plan which betrays its origin as a planned development by the Archbishops of Canterbury in the 11th or 12th century, overlain by civic trappings associated with Maidstone's later function as the County Town.
10. Within the Conservation Area there are examples of buildings dating from the 14th through to the 21st century and there is no dominant style, although 18th and early 19th century vernacular classicism is particularly evident. Nonetheless, a cohesive historic character exists, most particularly in those places, including Lower Stone Street, where there remain large concentrations of historic buildings and where the medieval street plan and much of the medieval burghage plot divisions remain intact. The latter still influence much of the grain and scale of the built development, particularly in the characteristic narrow frontages still evident in some streets, including Lower Stone Street.
11. There are isolated examples of modern buildings within and around the CA, which have a negative effect on its overall character and appearance. Such is the case on lower Stone Street, where the appeal site faces modern development. The commercial frontages, including that within which the appeal site lies exhibit historic upper storeys above more modern shopfronts, often with prominent advertising signs and some of these have a negative effect on the overall character and appearance of the CA.
12. Given the above, I find that the significance of the CA, insofar as it relates to these appeals, to be primarily associated with the historical, aesthetic and evidential value of its remaining vernacular buildings and their features.
13. The LB is formed of three late 18th or early 19th century buildings, all of three storeys, of varying design and appearance. This notwithstanding the group exhibits a consistent patina of age and integrity to the design of the upper floors. Through the varying designs and use of materials the group exhibits a collection of vernacular architecture, providing useful comparative details.

14. The appeal site is one of a pair of shops that form the end building on the group. The three buildings all have commercial uses at ground floor level, with modernised shop fronts. Some traditional shopfront features, such as recessed doorways are retained. Modern fascias and signage on the units are somewhat at odds, visually, with the upper floors, which retain a patina of age and reflect more traditional design. The upper floors appear to be in residential, commercial or storage use.
15. Given the above, I find that the special interest of the LB, insofar as it relates to these appeals, to be primarily associated with the aesthetic value of the façades of the three buildings as a vernacular group and the contribution that they make to the street scene.
16. At the time of my site visit the development and works appeared to have been completed. A steel roller shutter, housed in a simple, angular, yellow-painted box-like housing had been fitted to the front of the building. When closed this completely obscures the shop front below the deep fascia and has a hard, unwelcoming appearance.
17. This shutter closely resembles another fitted to the adjacent shop unit within the building. The shutter is starkly modern in appearance and its solid form is an inauthentic and alien addition to the LB lacking any clear historical justification. This is exacerbated by the strident colour which draws attention to this incongruous feature on the building. In this case, that incongruity is so marked as to harm the appearance of the host building, its neighbours, and the wider area.
18. The appellant suggests that the roller shutter was installed as a means to alleviate antisocial behaviour that was becoming commonplace outside the shop, resulting in broken windows and rough sleeping in the doorway, with associated incidents of urinating on the shopfront, which seeped into the shop. However, it has not been demonstrated that such a harsh, solid feature is the only means of controlling such behaviour. Further, there is evidence that solid shutters can attract graffiti, which can itself be harmful to the appearance of buildings and the character and appearance of an area.
19. It is also contended that the roller shutter is only lowered at night and the early hours of the morning, thus lessening the harm. However, as the housing of the shutter would be evident at all times, this does little to alleviate the harm.
20. My attention has been drawn by the appellant to other roller shutters in the area and it is argued that these form a prevailing feature in the immediate vicinity. My attention has been particularly drawn to the roller shutter on the adjoining shopfront, a nearby shutter on Knight rider Street and several others within the CA.
21. The Council have informed me that shutters installed at 42, 50-54 and 60 Lower Stone Street do not have consent, whilst the shutter at 35-37 Lower Stone Street does, but for a grille design, rather than a solid shutter that is in place. It is understood that these are subject to enforcement action and so, whilst they are currently an extant feature of the street scene, they do not constitute a precedent for the proposal. In any case, such harm would not justify harm to the LB or further harm to the character and appearance of the CA.

22. Given the above, I find that the proposal would fail to preserve the special interest of the LB and the character and appearance of the CA as a whole. In doing so it would harm the significance of these designated heritage assets. I give this harm considerable importance and weight.
23. Paragraph 205 of the Framework advises that when considering the impact of development on the significance of designated heritage assets, great weight should be given to their conservation. Paragraph 206 goes on to advise that significance can be harmed or lost through the alteration or destruction of those assets or from development within their setting and that this should have a clear and convincing justification.
24. Given the nature and scale of the development and works I find the harm to be less than substantial in this instance but nevertheless of considerable importance and weight.
25. Under such circumstances, paragraph 208 of the Framework advises that this harm should be weighed against the public benefits of the proposal, which includes the securing of optimal viable use of listed buildings. It has not been demonstrated that, in the absence of the development and the works gaining permission, the business would fail.
26. The proposal would provide a minor benefit to the local economy as it would provide employment in the construction industry and the supply chain. However, due to the minor scale of the works I afford this limited weight in my decision.
27. The shutter provides security and prevents damage to the business and the fabric of the building. However, as can be seen above, it has not been demonstrated that a shutter, in the form installed, is the only means of controlling such behaviour. This reduces the weight that I place on these public benefits.
28. Given the above and in the absence of any public benefit that would outweigh the harm to the heritage assets that I have found, I conclude that, on balance, the proposal would fail to preserve the special historic interest of the Grade II listed building and the character and appearance of the Maidstone Centre Conservation Area. This would fail to satisfy the requirements of the Act, paragraph 206 of the Framework and conflict with policies LPRSP14(B), LPRENV1 and LPRQD3 of the LPR that seek, among other things, to ensure the continued contribution to the economy, culture and image of Maidstone Borough made by heritage assets through their conservation, and where possible, enhancement of significance and setting, and that shopfronts are in sympathy with the architectural style, materials and form of the buildings of which they would form part and the character of the neighbouring properties.

Conclusion

29. For the above reasons and having regard to all other matters raised I conclude that the appeals should be dismissed.

I A Dyer

INSPECTOR