



Appeal Decision

Site visit made on 23 April 2024

by Robert Naylor BSc (Hons) MPhil MRTPI

an Inspector appointed by the Secretary of State

Decision date: 22nd May 2024

Appeal Ref: APP/U2235/W/23/3330730

50 Gabriels Hill, Maidstone ME15 6JJ

- 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 Rzgar Ali against the decision of Maidstone Borough Council.
 - The application Ref is 23/502978/FULL.
 - The development proposed is described as a retrospective application for regularising existing front windows which replaced previous rotten windows, to match previously approved rear windows (under reference 21/505492).
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. A revised National Planning Policy Framework (the Framework) was published by the Government on 19 December and updated on 20 December 2023 and accompanied by a written ministerial statement (WMS). I am familiar with the content of the revised Framework and the accompanying WMS and none of the revisions to the Framework would be material to this appeal. Having considered the revisions and in light of the principles of natural justice, in this instance I do not consider it necessary to invite any submissions from the parties on the revised Framework. Any references to the Framework hereafter in this decision are to the latest version.
3. Since the Council issued its decision on the planning application, the new Maidstone Borough Local Plan Review 2021-2038 (MLP) has been adopted on 20 March 2024. As such, I have taken it into account in my decision. In regard to this appeal the Council have clarified the relevant MLP policies are LPRSP1, LPRSP14(B), LPRQD4, LPRSP15, LPRHOU2 and LPRENV1. The appellant has had the opportunity to comment on the new policies and I have taken their response into account in making my decision.
4. At the time of my site visit, I could see that the replacement glazing on the front elevation was already in situ, and the appeal is therefore being considered retrospectively. Nevertheless, for the avoidance of doubt, I have determined the appeal based on the proposed plans before me.
5. I am obliged to use the description of the development as included on the planning application form which is different from how the appellant described it in their appeal form and the Council in their decision notice.

Main Issue

6. The main issue is the effect of the proposal on the character and appearance of the Maidstone Central Conservation Area (MCCA) and the host property a non-designated heritage asset (NDHA).

Reasons

7. The appeal site is a terraced property located on the western side of Gabriels Hill within Maidstone Town Centre. The area is mixed use with commercial premises located on the ground floor and upper floors being occupied for residential and office uses and has been designated as a Secondary Shopping Frontage. The site is also located within the MCCA whose significance is derived from features and forms of a traditional medieval market town and a gridded street plan which was originally a planned development by the Archbishops of Canterbury. As such, I have a statutory duty under Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990, (the Act) to pay special attention to the desirability of preserving or enhancing the character or appearance of the MCCA.
8. Gabriels Hill forms part of the cohesive historic character of the MCCA, as large concentrations of historic buildings remain, making it one of the MCCA's most interesting and characterful streets. Whilst this character stems from the retention of a significant number of historic buildings, it is also assisted by the narrowness and steep topography of the street. The appeal site appears to be an 18th Century building, originally containing single glazed timber sash windows. However, like other properties the windows have been replaced over time, adding to the variation of window treatments found in the area, which include single glazed timber sash; Crittal and double-glazed uPVC units.
9. Despite the overall variation, the architectural design at the upper floor level in this part of Gabriels Hill is generally consistent, and whilst it is acknowledged that some windows are in a poor state of repair, a rhythmic pattern is retained. The proposal however, provides thick uPVC frames with casement windows, which are significantly different in proportions to the original windows and other timber sash units in the area. As such the proposal appears to be visually disruptive to the character and rhythm of the terrace of buildings. These window units result in a noticeable and harmful change to the host property and the MCCA in general.
10. There would be some harm to the MCCA arising from development within its setting and similarly for the host property which is a NDHA. As such, the proposal would fail to preserve or enhance the character or appearance of the MCCA and would harm its significance. I attach considerable importance and weight to the desirability of avoiding any such harmful effect in accordance with Section 72(1) of the Act.
11. The harm the proposal would cause to the significance of the MCCA would be less than substantial. Paragraph 208 of the Framework advises where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use.

12. The appellant draws my attention to a previous issue of planning permission¹ at the site for the retention of existing uPVC windows to the rear elevation and replacement of existing uPVC windows to the front elevation with timber windows. It is acknowledged that the cost of the current proposal would be substantially less costly than timber replacements, and arguably the uPVC would have longevity in comparison to the timber frames. This would clearly be an economic benefit to the appellant and thus supporting the viability of the commercial unit at the ground floor level.
13. The appellant also highlights that the uPVC units are more energy efficient and could enhance the living conditions of the residents in the upper floors through acoustic improvements. Double glazed windows would be more energy efficient than single glazed panes, and this is a worthwhile benefit of the proposal. However, the Council address this in its appeal statement highlighting that secondary glazing is a technique widely recommended, including by Historic England. Therefore, energy efficiency and acoustic changes could be made to the host property, through secondary glazing, without harm to the character and appearance of the MCCA and the NDHA.
14. Whilst the proposal provides limited associated economic and social benefits, the appeal scheme would fail to preserve the character and appearance of the MCCA and setting of the NDHA, to which I must attach importance and great weight. Accordingly, the public benefits would not outweigh the less than substantial harm that would be caused to the significance of the heritage assets identified above.
15. As such, the proposed development fails to preserve or enhance the character or appearance of the MCCA and the setting of the NDHA. The proposal would therefore be contrary to MLP Policies LPRSP14(B), LPRQD4, LPRSP15, LPRHOU2 and LPRENV1, insofar as they collectively seek good design, which conserves, protects and enhances the character and appearance of the area and the significance of the heritage asset and its setting, amongst other things. Nor would it accord with the relevant paragraphs in the Framework.
16. However, I do not find conflict with MLP Policy LPRSP1 as this policy is principally concerned with the regeneration of Maidstone town centre and is largely irrelevant to this particular matter.

Other Matters

17. My attention has been drawn to other decisions² to show inconsistency in decision making by the Council. I am not aware of the full circumstances and/or planning history associated with these cases, but it is evident from the limited details presented that they turned on their own particular merits. I therefore give these examples limited weight, as I cannot be certain that these are directly comparable. In any case, each scheme must be considered on its own merits. While consistency in decision making is important, ultimately, applications should be determined in the light of the specific circumstances and context of each case.
18. I acknowledge the level of support expressed for the proposed development; however, this does not outweigh the weight I have given to the conflict with the development plan, outlined above.

¹ Maidstone Borough Council Planning Ref: 21/505492/FULL

² Maidstone Borough Council Planning Refs: 18/506696/FULL & 21/506280/SUB

Conclusion

19. The proposal does not accord with the development plan as a whole and there are no other considerations, including the Framework, that indicate that I should take a different decision other than in accordance with this. Therefore, I conclude that the appeal should be dismissed.

Robert Naylor

INSPECTOR