



Appeal Decisions

Site visit made on 24 June 2024

by N Thomas MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 17 SEPTEMBER 2024

Appeal A: APP/L3625/W/23/3333954

Thai Taste Lounge, 38A High Street, Reigate RH2 9AT

- 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 Justice Haynes against the decision of Reigate and Banstead Borough Council.
 - The application reference is 23/01822/RET.
The development proposed is the part retention of an existing decked area, covered area, external staircase and associated works.
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Appeal B: APP/L3625/Y/23/3333955

Thai Taste Lounge, 38A High Street, Reigate RH2 9AT

- 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 Justice Haynes against the decision of Reigate and Banstead Borough Council.
 - The application reference is 23/01823/LBC.
 - The works proposed are the part retention of an existing decked area, covered area, external staircase and associated works.
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Decisions

Appeal A

1. The appeal is dismissed.

Appeal B

1. The appeal is dismissed.

Preliminary Matters

2. As the development is in a conservation area and relates to a listed building 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).
3. The deck and covered area have already been built. The covered area is enclosed on three sides and is an outbuilding. From the deck are timber stairs leading down to a spiral staircase and access to the rear of the first floor of the main building. The spiral staircase gives access to a yard at the rear of the ground floor level of the main building. It is proposed to replace the spiral staircase with a new staircase built into the retaining wall. The drawings indicate sections and floor plans of the outbuilding but do not show the elevations. I have therefore determined the appeals on the basis of what has been built.

4. The works have an interface with the main building on the site, including the attachment of railings. The Council has not raised concerns with any effect on the fabric of the building and I have seen no evidence that would lead me to take a different view.
5. The County Archaeological Officer (CAO) has noted that if the appeal is dismissed it would be reasonable to require that a record is made of the area of disturbance and the masonry that has been revealed in advance of the restoration of the site. That is a matter for the Council and is not before me.

Main Issues

6. The appeal property is a Grade II listed building known as "The Reigate Taylors" (Ref: 1241443) (the LB). It lies within Reigate Town Centre Conservation Area (CA). It is adjacent to Reigate Castle (Ref: 1005947) which is a Scheduled Monument (SM) and a locally listed park and garden (LLPG).
7. The main issue is whether the development preserves the LB and any features of special architectural and historic interest that it possesses; whether it preserves the setting of the SM; whether it preserves or enhances the character or appearance of the CA; and the effect on the significance of the LLPG as a non-designated heritage asset (NDHA).

Reasons

8. The LB is a two-storey building within the densely developed town centre. It is believed to date from the mid-16th century and is a timber-framed hall house which was incorporated into a shop. Late 19th and early 20th century additions and alterations have been added to the front elevation with a shop front and double gables in a mock Tudor style, so that the earlier parts of the building with timber framing are only partly visible externally on the east elevation. To the west a modern 'matching' mock Tudor extension has been added with a similar appearance. The front and west elevations are not of special interest in themselves but indicate the evolution of the building. There is a large late 19th or early 20th addition to the rear, with a flat roof.
9. Although the building has been extensively altered, it retains much of the exposed internal timber framing, giving evidence of the 16th century structure and subsequent alterations. The building is at the front of a narrow burgage plot fronting onto the High Street. Mapping from 1870 shows that the plot was wider at that point, taking in what is now No 40. It is a surviving example of a 16th century former dwelling in a burgage plot.
10. Despite the modern rear extension there was still an area of open garden prior to the appeal development taking place. The rear garden was sloped with steps leading to a flat area of lawn at the rear of the site with a small garden shed. The rear boundary of the appeal site abuts Castle Walk, a footpath within the mature gardens associated with the remains of Reigate Castle, which is in an elevated position overlooking the town and surrounding countryside. Due to the age of the building and its proximity to the Castle and its embankment, it has high archaeological potential, although there may have been disturbance through previous extensions and alterations.
11. The special interest of the LB, insofar as it relates to these appeals, relates to its architectural interest as an aesthetically pleasing element of the historic town centre and the evidential value of the surviving timber frame and burgage

- plot. The openness of the rear garden allowed an appreciation of the historic elements of the LB and contributed positively to its significance.
12. The SM covers the top of the hill occupied by the remains of Reigate Castle, which dates from the Norman Conquest, with evidence of the associated earthworks. Due to its commanding position, there are views from the SM to the south over the roofscape of the High Street, giving an appreciation of the historic relationship between the Castle and the town. Rear gardens are separated from this part of Castle Walk by brick walls, close boarded fence, or brick outbuildings opening onto the path. Insofar as these appeals are concerned, I find the relevant aspects of its setting that contribute to its significance to be its visual and physical relationship with the surrounding landscape and townscape, including views to and from the Castle over rear gardens. The rear garden is visible from Castle Walk and the submitted photographs showing the previous condition of the site indicate that it contributed positively to the relatively undeveloped setting of the Castle.
 13. The CA is centred on the historic market town and castle and includes the land which falls away to the south. The town developed as an important stop on the route from London to the coast as well as east-west routes. The High Street and surrounding roads are dominated by close-knit vernacular buildings with some Georgian and Victorian alterations and additions. Insofar as these appeals are concerned, the significance of the CA is derived from the interrelationship between the Castle and the historic core of the town. The green and relatively undeveloped rear gardens of properties on the north side of the High Street, including the appeal site, make a positive contribution to this significance.
 14. The development has resulted in most of the rear garden being covered with a timber deck, on which has been erected a box-like open fronted structure with light coloured sheeting on timber roof joists supported by timber boarded walls. Although there are flat roofed structures nearby on neighbouring plots and at the appeal site, the elevated position of the building, filling most of the remaining rear garden, and its form and materials, means that the stridently alien structure is at odds with the vernacular form of the timber framed LB. As a result, it dominates the rear garden. In combination with previous extensions, it further erodes the authenticity of the LB.
 15. The CAO has commented that the groundworks that have taken place so far appear to have revealed masonry that may be derived from the Castle itself. The proposed staircase may also involve disturbance of the Castle mound. They have suggested a condition to require that any archaeological interest that has been revealed is recorded and that monitoring is carried out. However, as there is a likelihood that the works have already disturbed features of archaeological interest the significance of the SM in terms of its archaeological interest has been adversely affected.
 16. Although the appellant asserts that the outbuilding is not visible from the SM, the boundary of the SM is alongside Castle Walk and therefore in close proximity to the appeal site. The outbuilding is clearly visible in close views from Castle Walk and apparent in other views from the SM. Due to the rising ground in the SM, there are views of the conspicuous light-coloured roof covering and the top of the walls. The top of the walls, the roof covering and roof joists are an incongruous and prominent feature. Due to its design, siting

and materials it is at odds with the other rear boundary structures nearby, which are either vernacular style buildings or modest later additions which are much less visually prominent. It is a conspicuous element that detracts from the positive contribution that the rear garden makes to the setting of the SM. It therefore erodes the significance of the SM.

17. The development is visible from the public realm within the CA. Due to its design, materials and proximity to the rear boundary of the site it appears as an incongruous element that detracts from the visual relationship between the Castle and the historic core of the town. Bearing in mind the degree of prominence, it has a negative effect on the significance of the CA as a whole.
18. The appellant has drawn my attention to an outbuilding at the rear of No 36 which immediately abuts Castle Walk. I do not know whether this is a recent addition but I note that it is brick built in a vernacular style and is not comparable with the strident incongruence of the appeal development. There are other modern developments in the vicinity of the site and I do not know the circumstances that led to them being built. In any event, I did not see any outbuildings nearby that were comparable to the appeal development in terms of design, materials or siting.
19. The appellant argues that the works are reversible and do not affect the fabric of the LB. However, they are causing ongoing harm to the heritage assets through their settings. Although the development can be removed, it has caused ground disturbance that may have already caused direct harm to the archaeological interests of the SM. The reversibility of some of the development does not therefore indicate that the appeals should be allowed.
20. Given the above, I find that the development fails to preserve the special interest of the LB, fails to preserve or enhance the character or appearance of the CA and also fails to preserve the significance of the SM, as derived from its setting.
21. Paragraph 205 of the National Planning Policy Framework (NPPF) advises that when considering the impact of development on the significance of designated heritage assets, great weight should be given to the asset's conservation. Paragraph 206 goes on to advise that significance can be harmed or lost through the alteration or destruction of the asset or from development within its setting and that any such harm should have a clear and convincing justification.
22. Taking into account the scale and nature of the development, I find the harm to be less than substantial, but nevertheless of considerable importance and weight in the planning balance of these appeals. Where a proposal would lead to less than substantial harm to the significance of a designated heritage asset, paragraph 208 of the NPPF advises that this harm should be weighed against the public benefits of the proposal, including, where appropriate, securing its optimum viable use.
23. The appellant has suggested that it would be beneficial to replace the metal spiral staircase with the proposed staircase, which can be seen through the rear bay window. However, I have not been advised that any permission was sought or obtained for the metal spiral staircase therefore its removal is not a public benefit. Prior to the works being carried out there was no safety barrier between the slope of the garden and the ground floor level, which could have

led to accidents. I have seen no evidence that alternative means of ensuring the safety of those using the garden that would be less harmful to heritage assets have been investigated and ruled out. Moreover, improving the safety aspects of the change in levels in the garden does not justify the addition of a large area of decking and an outbuilding.

24. The decking and outbuilding provide outdoor seating for the use of No 38A as a restaurant. It is not uncommon for commercial properties such as this to use outdoor areas for seating etc and I note that the NPPF in paragraph 85 advises that significant weight should be placed on the need to support economic growth and productivity. This does not outweigh the need to give great weight to the conservation of designated heritage assets. Furthermore, it has not been shown that the garden could not be used for the business in a less harmful manner. In the absence of any defined public benefit, I conclude that the development has failed to preserve the special interest and significance of the LB and SM, and has failed to preserve or enhance the character and appearance of the CA. It has thereby failed to satisfy the requirements of the Act.
25. Much of the area covered by the SM is within a publicly accessible park which is a LLPG and a non-designated heritage asset (NDHA). The LLPG contains two elements, a garden dating from 1777 on the flat lawn of the central motte with its follies. The follies include the Castle Gateway and the Pyramid. The second element is the wider Victorian public gardens with specimen trees.
26. The effect of development on the significance of a NDHA should be taken into account in determining the appeals, as set out in paragraph 209 of the NPPF. A balanced judgement will be required having regard to the scale of any harm or loss and the significance of the heritage asset.
27. In relation to these appeals, the significance of the LLPG lies within its secluded gardens and mature planting. The mature landscaping which dominates the rear gardens, including the former condition of the appeal site, makes a positive contribution to the significance of the LLPG. Due to the prominence of the outbuilding and conspicuous appearance it undermines the verdant appearance of the backdrop to the LLPG and is thereby harmful to its significance. Having regard to the scale of the harm and the significance of the heritage asset it has an unacceptable effect on the LLPG as a NDHA.
28. Taking all this into account, the development is in conflict with paragraphs 205 and 209 of the NPPF and conflicts with Policies DES1 and NHE9 of the Reigate and Banstead Local Plan Development Management Plan 2019, insofar as they seek to ensure that development preserves and enhances heritage assets.

Conclusion

29. For the reasons given above the appeals should be dismissed.

N Thomas

INSPECTOR