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# Appeal Decision

Site visit made on 6 July 2015

**by Cullum J A Parker BA(Hons) MA MRTPI AIEMA**

**an Inspector appointed by the Secretary of State for Communities and Local Government**

**Decision date: 13 August 2015**

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**Appeal Ref: APP/U2235/W/15/3005240**

**St Lukes Centre, 33 Foley Street, Maidstone, Kent ME14 5BD**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for planning permission.
  - The appeal is made by Mr Matthew Gallagher against Maidstone Borough Council.
  - The application Ref 14/503886, is dated 7 October 2014.
  - The development proposed is described as 'the existing site is currently an unoccupied Builders yard, which we are proposing to demolish in its entirety and seek full planning permission for the proposed residential development and change of use from light industrial to residential development. The proposed development is for 6no. two storey dwellings constructed within a terraced format and positioned in line with the frontage of its neighbours, facing onto Foley Street. The proposals shall include rear and front gardens for each dwelling together with storage facilities.'
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## Decision

1. The appeal is dismissed.

## Procedural Matters

2. The Council has indicated that had it still been in a position to do so it would have refused the application for the following reasons:
  - a) *The proposed demolition of the buildings on the application site would result in total loss of significance which would harm the adjacent St Luke's Church, both because of their importance to its setting and because of the historical link between the two buildings. Contrary to paragraph 135 of the NPPF and relevant policies of the Borough Wide Local Plan 2000.*
  - b) *The proposed development would appear incongruous within the setting and detract from the local area contrary to guidance as given by relevant policies of the Maidstone Borough Wide Local Plan 2000.*

## Background and Main Issues

3. The Council failed to determine the planning application within the proscribed period, and subsequently the appellant has appealed the non-determination of the scheme. Based upon the submitted evidence, and taking into account the Council's suggested reasons for refusal, I consider the main issues to be:
  - Whether the proposed development would preserve the special architectural and historic interest of the Grade II listed building or its setting, and;

- The effect of the proposed development on the significance of the non-designated heritage asset, and;
- The effect of the proposal on highway safety in terms of parking provision, and;
- Whether the proposed development would represent sustainable development.

## **Reasons**

### *Effect on heritage assets*

4. The appeal site lies within a residential area of Maidstone that is characterised by mixture of dwellings, although the immediate street scene is strongly influenced by Victorian or Edwardian period properties. On the other side of Foley Street is St Luke's Church (the church), which comprises the main church building together with smaller ancillary buildings and car park used by local community groups and a pre-school. The church itself is a listed building Grade II, having been designed by WH Seth-Smith and erected in 1896-1897. The church is an arts and crafts free gothic design with art nouveau touches and these features both reinforces and are in turn reinforced by the nearby Victorian and Edwardian architecture within Foley Street and St Luke's Road.
5. St Lukes centre (the centre) was designed by the local Maidstone architect, Hubert Bensted, as a mission church and built around 1887. The centre predates St Luke's Church, having been the original church for this part of Maidstone during the growth of the town in the Victorian period. When the church was erected and occupied on the other side of the road, the centre was used as a church school until the 1930s, when it was used as the offices for a builders yard until the late 2000s. Since about 2009 it has remained unoccupied, although I saw that internal works had been undertaken to convert the building into a meeting hall of sorts during my site visit. However, there is no cogent evidence that the building has been used as a community facility either since 2009 or before.
6. With both its proximity and architectural style, it was clear during my site visit that there is a clear visual link between the church and the centre. Furthermore, whilst the centre has been extended and altered, these extensions have generally been done in a comparable style to the original building as built, as is evident from the drawing in *The Building News* of 14<sup>th</sup> October 1887. As such, when viewing the church within the street scene it is clear that the centre plays an important part in visually and historically experiencing the listed building. In light of that, I consider that the centre makes an important contribution to the setting of the listed building, just as nearby Victorian era buildings; although the linkage in this case is much stronger due to the direct historical links between the centre and the church which I explore below.
7. The Council considers that the appeal building is a non-designated heritage asset. In this respect the building is an attractive and unusual example of Victorian design by a local architect of some note – for example I understand Mr Bensted was the architect for extensions and alterations at Chillington Manor (now the Maidstone Museum). Furthermore, the building provides a

social historical interest by demonstrating the importance placed by the Victorians on catering for religious needs in growing towns such as Maidstone in the 1800s. Further social historical interest derives from the use of the building as a church school, which underlines the importance of education in the Victorian period after its use as a church had ceased due to the erection of the Ragstone built St Luke's Church. Lastly, there is a strong associative link between the centre and the church, explaining the evolution of religious needs in the growth of this part of Maidstone during the 1800s, and this in turn adds to the significance of the listed building. Taking all these factors into account, I see no reason to disagree with the Council's position that the building can be considered a non-designated heritage asset.

8. The proposed development would result in the loss of these features and associations, together with the loss of the contribution the building makes to the significance of the listed building and its setting. Accordingly, the proposed demolition would result in less than substantial harm to the significance of the listed building and, due to its demolition, a total and irretrievable loss of the significance to the non-designated heritage asset. It has been pointed out that a record of St Lukes Centre could be made and stored on the historical environment record (HER). However, this would fail to mitigate the substantial harm to the non-designated heritage asset and the harm to the listed building and its setting. Furthermore, there is no evidence before me that conclusively demonstrates that such measures would be taken prior to any works to demolish the building. As such, I can only afford this factor limited weight.
9. The demolished centre would be replaced with a terrace of six dwellings. However, these lack the detailing and architectural styling of the surrounding properties. For example, the terrace containing Nos 39-41 onwards has features such as lintels, ground floor bay windows, and examples of recessed porches and a mixture of yellow and red brickwork. To the contrary, the proposed terrace would fail to replicate these features and instead would introduce a stepped porch cover spanning the width of the terrace, with side hung casement style windows without lintels and contrasting window arrangements. Cumulatively, the effect is a replacement design that would fail to reinforce or promote local distinctiveness within the street scene and would detract from the visual integrity of the wider area. As such the design proposed would further fail to mitigate the harm to the heritage assets.
10. Whilst I accept that the proposal would have no impact on the fabric of the listed building, it would nonetheless lead to less than substantial harm to the significance of the designated heritage asset and, through its total loss, substantial harm to the significance of a non-designated heritage asset. Amongst other aims, Paragraphs 134 and 135 of the Framework require that this harm is weighed against the public benefits. In this case, the public benefits include the provision of housing and an entry into the HER. However, I am required to give considerable importance and weight to the desirability of preserving the listed building or its setting or any features of historical interest, as required under Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (PLBCA), and I do not find that any benefits outweigh the harm I have identified to its setting.
11. I therefore conclude that the proposed development would result in unacceptable harm through the impact on the setting of the listed building

and the total loss of the non-designated heritage asset. The Council have cited the Maidstone Wide Borough Local Plan 2000 (MWBLP), but have failed to submit policies that specifically relate to heritage assets or design. Nonetheless, the proposed development would be contrary to the Policies of the Framework, which amongst other aims seeks to conserve designated heritage assets in a manner appropriate to their significance and would fail to preserve the setting of the listed building as required by the PLBCA.

#### *Highway safety – Parking provision*

12. The Council indicates that the proposal would increase on-street parking within the area 'significantly'. These concerns are shared by local residents, as demonstrated through their representations. I saw during my site visit that the area was fairly congested in terms of parking provision with a very limited number of permit-controlled spaces available at around 11:00 in the morning on the day of the site inspection. No parking provision would be provided on site. The removal of the existing access may provide a few additional parking bays on the road; although it is unclear the precise number of spaces that may be provided. Furthermore, this is on the highway and beyond the control of the appellant. I cannot, therefore, be certain that such additional bays would be made available for any demand created by the development.
13. Policy T13 of the Maidstone Wide Borough Local Plan 2000 (MWBLP) indicates that the Council will adopt parking standards for all new development. This is understood to be reflected in practical terms through the *Kent Design Guide Review: Interim Guidance Note 3 – Residential Parking* 20 November 2008 (KDGR). The guidance table indicates that for three- and four-bedroom properties in city/town centre locations, a maximum of one space per unit should be provided, with visitor parking served by public car parks. The local highways authority considers the location to be sustainable in terms of access to services and cite no recent traffic accidents. I agree that the site is within 5-10 minutes walking time of the town centre that provides a range of services and also in close proximity to a railway station and local bus services.
14. Paragraph 39 of the Framework sets out various criteria by which local parking standards should be set. In this case, the KDGR indicates a maximum requirement of 1 space per unit. This has not been demonstrated to be provided in this case, either on-site or on-street. However, given the location of the development close to the town centre, the proposal would help make the fullest possible use of public transport, walking and cycling by focussing the development in a location that is sustainable (in terms of access to services). This would meet one of the core planning principles set out in the Framework in Paragraph 17. Whilst the uncertainty in terms of the number of spaces that could be provided on-street is of concern, the local highways authority is content that sufficient parking could be provided that would not lead to an unacceptable impact on highway safety. Given both the degree of accessibility to local services and the fact that some parking could be provided close to the appeal site on-street, I see no reason to disagree.
15. I therefore conclude that the proposed development would not result in unacceptable harm to highway safety. The proposal would therefore accord with Policy T13 of the MWBLP, as supported by the KDGR, and the relevant Policies of the Framework cited, which amongst other aims seek to ensure that developments comply with the adopted parking standards.

### *Sustainable Development*

16. It has been suggested by the appellant that the Council is currently unable to demonstrate a five year supply of deliverable housing sites. This position is not disputed by the Council, and in the absence of any opposing evidence, I see no reason to take a contrary position. Paragraph 49 of the Framework is clear in that there is a presumption in favour of sustainable development and that if the Council cannot demonstrate a five year supply of housing land that relevant policies for the supply of housing should be considered out of date. However, it has not been suggested that any policies cited are specifically relevant in this respect.
17. Furthermore, in order to benefit from the 'presumption' a development must be sustainable development; that is achieving the three mutually interdependent roles of sustainable development that is; economic, social, and environmental, as set out in Paragraphs 7 and 8 of the Framework. In this case, I accept that there would be some benefits in terms of economic and social factors by creating jobs and houses. However, the proposal would fail to achieve the environmental role in terms of failing to contribute to protecting and enhancing our built and historic environment. It would also fail to reflect and support the community's social and cultural well-being through the loss of the historic building. Accordingly, the inability to fulfil the environmental role of planning, and aspects of the social role, mean that the proposal does not represent sustainable development and the presumption in favour does not apply in this case.

### **Other Matters**

18. The Council have pointed me to Policies CF2 and CF3 of the MWBLP, which refer to the loss of community facilities. It is not for me to determine the lawfulness of the existing use; being properly a matter for the Council. However, with little evidence that the use of the building as a community facility has been formalised, used extensively for such purposes, or that the building has been used for any other similar purpose since the cessation of the builders yard/offices use, it is unclear how these policies are relevant in this case. They do not, therefore, alter my findings in terms of the main issues identified.

### **Conclusion**

19. Whilst I have found in favour of the appellant in terms of highway safety, this does not provide sufficient justification for overcoming the harm identified to the heritage assets or the fact the proposal would not represent sustainable development. For the reasons given above, and having taken all matters raised into account, I conclude that the appeal should be dismissed.

*Cullum J A Parker*

INSPECTOR