
Appeal Decision

Site visit made on 27 March 2017

by Grahame Gould BA MPhil MRTPI

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

Decision date: 26th April 2017

Appeal Ref: APP/Z2260/W/17/3167149

Rose Inn, 13 Albion Street, Broadstairs CT10 1LU

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission under section 73 of the Town and Country Planning Act 1990 for the development of land without complying with conditions subject to which a previous planning permission was granted.
 - The appeal is made by Seaquest Properties Limited against the decision of Thanet District Council.
 - The application Ref F/TH/16/1474, dated 21 October 2016, was refused by notice dated 12 December 2016.
 - The application sought planning permission for alterations and extensions to roof, front and rear elevations of existing public house and change of use to provide A3 use at ground floor and basement and 6 apartments at first and second floors without complying with a condition attached to planning permission Ref F/TH/13/0989, dated 8 September 2014.
 - The condition in dispute is No 2 which states that: the development hereby permitted shall be carried out in accordance with drawing nos 161-04A, 06A and 07A.
 - The reason given for the condition is: to facilitate any minor material amendments.
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Decision

1. The appeal is allowed and planning permission is granted for alterations and extensions to roof, front and rear elevations of existing public house and change of use to provide A3 use at ground floor and basement and 6 apartments at first and second floors at the Rose Inn, 13 Albion Street, Broadstairs CT10 1LU in accordance with the application Ref F/TH/16/1474, including the plans numbered 161-04A; 06A; 11D; and 12C, made on the 21 October 2016 without complying with conditions Nos 1, 2, 3, 4, 5, 7 and 8 set out in planning permission F/TH/13/0989 granted on appeal on 8 September 2014, but otherwise subject to the following conditions:
 - 6) Unless within three months of the date of this decision a scheme for the installation of equipment for the control of the emission of fumes and smells from the A3 use, is submitted in writing to the local planning authority for approval, and unless the approved scheme is implemented within two months of the local planning authority's written approval, the A3 use shall cease and all equipment and materials brought onto the land for the purposes of the A3 use shall be removed until such time as a scheme is approved and implemented. Upon implementation of the approved scheme specified in this condition, that scheme shall thereafter be operated and maintained in accordance with the manufacturer's instructions.
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In the event of a legal challenge to this decision, or to a decision made pursuant to the procedure set out in this condition, the operation of the time limits specified in this condition will be suspended until that legal challenge has been finally determined.

- 9) The refuse storage and cycle parking facilities for the occupiers of the apartments shall be provided and retained for the duration of the development in accordance with the details shown on the approved drawings.

Background and Main Issue

2. Planning permission was granted under application reference F/TH/13/0989 on appeal¹ (the permission) for the extension and change of use of 13 Albion Street (No 13) to provide a restaurant on the ground floor and in the basement and six flats on the upper floors. The permitted development has been implemented and completed. However, external alterations have been made to the development, including the full rendering of the north eastern and north western elevations, contrary to the details shown on the approved drawings and/or approved through the discharge of conditions imposed on the permission.
3. Permission was sought to vary condition 2 (the plans condition) to reflect the as built development. In refusing to grant permission to condition 2's variation the Council has identified a particular concern relating to the full rendering of the north eastern and north western elevations. The main issue is the effect of the as built development on the character and appearance of the Broadstairs Conservation Area (the CA) and the setting of the adjoining listed buildings.

Reasons

4. No 13 is a three storey building that occupies a prominent corner position at the junctions of Albion Street with Thanet Road and Prospect Road. The rendered north eastern and north western elevations are readily visible, not least because those elevations are immediately bounded by plots that are open in character. The external finishes of the elevations of the buildings in the immediate vicinity of No 13 are varied and include brickwork, render and boarding.
5. Render is common place in much of the area within the vicinity of No 13 and it is an external finish that is typically found in seaside towns such as Broadstairs. No 13's north eastern elevation, in particular, is extensive and this wall has been constructed with no relieving features to speak of. However, I found the north eastern elevation to have an appearance that is not out of place, given the prevalence of render and the diverse mix of building designs and heights in the area. While the north eastern elevation has a very simple form, accentuated by the use of through colour render, I found that simplicity of form not to be incongruous within its surroundings.
6. The north western elevation is a comparatively narrow one and the centrally recessed glazed section at first and second floor levels assists in breaking up this elevation. I therefore consider that finishing this elevation with through colour rendering has not resulted in a bland elevation and I am also of the

¹ APP/Z2260/A/14/2215731

opinion that it is in keeping with the mix of external of finishes that are present in Thanet Road and Prospect Road. While planning permission (F/TH/16/1102) has recently been granted for a three storey dwelling that would occupy the vacant plot in front of the north western elevation that permission might not be implemented. Irrespective of whether or not permission F/TH/16/1102 is implemented, I consider that the appearance of No 13's north western elevation is acceptable.

7. For the reasons given above I conclude that the as built development has preserved the appearance of the extensive CA and the setting of the listed buildings within the vicinity of No 13, most particularly those at 14 to 20 Albion Street. The character of the CA has also been preserved because the changes made to the permitted development have had no use implications for this heritage asset.
8. The Council has advised that there are no relevant extant development plan policies. I have therefore had regard to the policies contained within the National Planning Policy Framework (the Framework). As the development is compatible with the appearance of the area, I consider there is no conflict with the policies set out in the Framework, most particularly paragraphs 131 to 134, because the development has not harmed the heritage assets.
9. In arriving at my conclusion I consider there is no conflict with the decision made by the Inspector who determined the previous appeal. That is because the appearance of the schemes before the previous Inspector and myself are different and the previous Inspector could only reach a view on the proposal that was before him.

Conditions

10. The appealed application has sought to vary condition 2 to enable a substitution of the approved drawings to be made. However, I consider that it would be inappropriate for me to impose a varied form of condition 2 because that would have the effect of requiring the development to accord with plans when it has already been completed. For clarity I have, however, included the numbers for the plans that my decision relies upon in the formal decision set out above.
11. As the appeal is to be allowed and a new permission is to be granted for the development that has been completed, it is necessary for me to consider which of the originally imposed conditions should be re-imposed. The appellant and the Council, at my request, have confirmed that of the originally imposed conditions numbers 3 (external materials), 4 (fenestration details), 5 (other external items), 7 (archaeology) and 8 (foundation design) have already been discharged. There is therefore no need for me to re-impose conditions 3, 4, 5, 7 and 8 or a standard time condition.
12. The requirements of condition 6 (control of the emission of fumes and smells) have not been discharged. To safeguard the living conditions of neighbouring residents it is necessary for a condition requiring details of a ventilation system for the permitted A3 use to be submitted for the Council's approval. Condition 6 is based on the wording suggested by the appellant and the Council and it requires the appellant to comply with a strict timetable for the submission of the details for the ventilation system and the subsequent installation of the approved system. The condition is so worded because,

unlike an application for planning permission for development yet to commence, in the case of a retrospective grant of permission it is not possible to use a negatively worded condition precedent to secure the subsequent approval and implementation of the outstanding detailed matter because the development has already taken place. The purpose and effect of the condition is therefore to ensure that the Class A3 use of the site authorised by the granting of planning permission may only continue if the appellant complies with each one of a series of requirements.

13. To ensure the proper functioning of the development the cycle and refuse storage facilities should be provided and I have therefore re-imposed condition 9.

Conclusion

14. For the reasons given above I conclude that the appeal should be allowed so that the external finishes that have been used can be retained.

Grahame Gould

INSPECTOR