
Appeal Decisions

Site visit made on 8 October 2019

by S J Papworth DipArch(Glos) RIBA

an Inspector appointed by the Secretary of State

Decision date: 16 October 2019

Appeal A: APP/Z2260/W/19/3221754

Flat 1, 22 Vale Square, Ramsgate CT11 9DE

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr Keith Fraser against the decision of Thanet District Council.
 - The application Ref F/TH/18/0418, dated 21 March 2018, was refused by the Council by notice dated 2 August 2018.
 - The development proposed is change of use and conversion of the lower ground and basement floors from a single residential unit to two, self-contained flats.
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Appeal B: APP/Z2260/Y/19/3221753

Flat 1, 22 Vale Square, Ramsgate CT11 9DE

- The appeal is made under section 20 of the Planning (Listed Buildings and Conservation Areas) Act 1990 against a refusal to grant listed building consent.
 - The appeal is made by Mr Keith Fraser against the decision of Thanet District Council.
 - The application Ref F/TH/18/0419, dated 21 March 2018, was refused by the Council by notice dated 2 August 2018.
 - The works proposed are internal and external alterations including enlargement of front and rear light wells with metal railings enclosing and alterations to the fenestration to facilitate change of use and conversion to two self-contained flats at basement and lower ground floor level.
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Decision Appeal A

1. I allow the appeal and grant planning permission for change of use and conversion of the lower ground and basement floors from a single residential unit to two, self-contained flats at Flat 1, 22 Vale Square, Ramsgate CT11 9DE in accordance with the terms of the application Ref F/TH/18/0418, dated 21 March 2018 and subject to conditions 1) to 4) on the attached schedule.

Decision Appeal B

2. I allow the appeal and grant listed building consent for internal and external alterations including enlargement of front and rear light wells with metal railings enclosing and alterations to the fenestration to facilitate change of use and conversion to two self-contained flats at basement and lower ground floor level at Flat 1, 22 Vale Square, Ramsgate CT11 9DE in accordance with the terms of the application Ref F/TH/18/0419, dated 21 March 2018 and submitted drawings 17.1136.DPS.PL04D, PL05A and 06A, subject to conditions 1) to 4) on the attached schedule.

Main Issues

3. These are;

- In Appeal A only, the effect of the proposal on the living conditions of prospective residential occupiers.
- In both Appeal A and Appeal B, the effect of the proposal on the architectural or historic significance of the listed building and the character and appearance of the Ramsgate Conservation Area.

Reasons

4. The building has 2 floors below the raised main entrance level, both entered presently by a door, with a covered way over descending stairs, to the side of the main building. The upper level, the lower ground floor, is in use as a flat with the window to the street elevation having about half its depth below and half above adjacent ground level, while that at the back is entirely above the rear garden level. That flat has physical access to the basement within its secured area, and that appeared to be in use for ancillary rather than habitable purposes. The appeal proposal relocates the inner lockable front door to the existing flat to allow independent access to the basement, which is proposed to be formed into an additional 1 bedroom 2-person dwelling.

Living Conditions

5. Thanet Local Plan Policy D1 sets out design principles and requires among other things, development to be compatible with neighbouring buildings and spaces and not lead to unacceptable loss of amenity. Paragraph 127f of the Framework seeks to create places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users.
6. The works proposed to bring the basement into habitable use would entail placing less-sensitive uses such as the kitchen and bathroom internally and thus relying on artificial light and mechanical ventilation. Care in venting damp air would allow adequate clothes-drying facilities to be provided. The bedroom would be placed at the front where there is an existing window that would be widened and replaced with a full-depth pair of doors with sidelights, and to the rear a window would be similarly treated to service the lounge and dining area. This arrangement of rooms takes advantage of the lower ground level to the rear, notwithstanding being north-facing.
7. However, both existing windows are severely affected by the limited size of the lightwells and their depth relative to the adjacent ground level, and even the lower ground level to the rear does not assist greatly due to the small area of grating to the lightwell. That to the front is particularly lacking due to the small area and the depth and these factors limit the improvement that the increase in glazed area can provide.
8. That shortcoming is sought to be addressed by works to both lightwells, by increasing their width and by battering back the wall opposite the proposed doors. An *'Assessment of Daylight and Sunlight Provision'* concludes that with those measures, *'whilst sunlight levels will be limited, it is evident that all rooms meet or exceed suggested internal daylight levels and it can thus be concluded that whilst rooms may not receive large quantities of direct sunlight,*

the overall quality of daylight is sufficient for the intended use'. Natural cross-ventilation would exist front-to-back.

9. The Reason for Refusal concerns outlook in particular, and whilst the bedroom would be sufficiently well-lit, the increase in size of the lightwell and the battering back of the opposing wall would not allow a ready view of passing pedestrians or other activity, but with a possible view of trees on the church boundary. Taking account of the use of the room and the acceptability of the natural daylight, no harm would occur to the living conditions of the occupiers through the limited outlook. Turning to the lounge and dining area to the rear, the enlargement of the lightwell and most particularly the battering back of the wall would allow an outlook, albeit angled, over the rear garden area.
10. To conclude, the lower-level flat thus formed would be of an acceptable layout and size as confirmed by the Officer's Report, and would provide an acceptable quality of daylight, as well as an outlook that would not cause harm to the living conditions of the occupiers, and would conform to the requirements of Policy D1 and the parts of the Framework previously cited.

Listed Building and Conservation Area

11. Part 16 of the 2019 National Planning Policy Framework contains policies on conserving and enhancing the historic environment and paragraph 193 states that when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation. Sections 16(2) and 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires special regard to be had to the desirability of preserving the listed building or its setting or any features of special architectural or historic interest which it possesses. Section 72(1) of the same Act requires special attention to be paid to the desirability of preserving or enhancing the character or appearance of the conservation area.
12. Internal works would be required to fit the spaces for their intended use and to address the damp that would be expected in this type of property at this low level; such areas were not intended to be habitable and open fires and gaps in joinery would have promoted a greater movement of air than would be expected now. The Conservation Officer lists a number of concerns but acknowledges that a balancing exercise would be required.
13. The suggested condition requiring a full schedule and specification of works together with working drawings would ensure the significance of the internal arrangements of the building would be sufficiently protected. With those provisions, the proposed works would bring about a limited loss of plan-form but mainly with the use of removeable lightweight partitions, and features of significance such as the fireplace can be retained. Nevertheless, some limited harm would be caused.
14. The works to increase the size of the lightwells would affect the presentation of the front and rear of the listed building but the effect on the wider conservation area would be limited and acceptable. Part of the barrel-vaulted area would be retained in both cases as evidence of the original layout, but the larger void would not be a feature of the building as listed and a moderate level of harm would be caused.

15. That leaves the matter of the railings considered necessary to guard the drop into the lightwells. It is the fact that there is a drop at present, albeit the opening through which one might fall is smaller, it does extend to the same lowest level. Falling is guarded against presently by horizontal grilles which are a traditional method, that to the accessible rear being at or about ground level whilst that to the front is at the cill level of the lower-ground floor. It is not clear why a revised version would not suffice and the appellant's final comments state that railings are not essential to demonstrate compliance with the Building Regulations. Some simplified bow-top railings are also referred to, but the conclusion is that a limited level of harm would result from the need to guard a larger area than would be original to the listed building.
16. The level of harm in each case would be 'less than substantial' and the cumulative harm of all works would remain at that level. This is a differentiation required between paragraphs 195 and 196 of the Framework. In this case the latter applies and this states that this harm should be weighed against the public benefits of the proposal, including securing its optimum viable use. This last reference should not however be taken to seek the *maximum* viable use regardless of the effect.
17. There would be benefit from the formation of an additional unit of accommodation in this highly accessible and sustainable location, close to transport, shops and other town centre facilities. There is reference to a lack of a 5-year supply of housing, but the 'tilted balance' in paragraph 11d of the Framework does not apply to designated heritage assets as set out in footnote 6 and part 16 of that document.
18. The appellant offers the reinstatement of the boundary railings and the adjoining dwelling has decorative railings around the boundary, emphasising the exposed frontage of the appeal site. Such boundary railing could limit the chance of animals or people from outside the site falling into the lightwells and could allow a risk-based approach to the type of guarding required.
19. Substantial weight attaches to the provision of railings to the boundary as a public benefit and one that directly and positively affects the listed building, the setting of its neighbours and the church, and would enhance the character and appearance of the conservation area. Were it to allow a less intrusive form of guarding to the front lightwell, further weight should be attached. As it is, and assuming for the purposes of the balance that visible guarding were to be essential, the boundary railings would take the eye and reduce the effect of the guarding.
20. In conclusion, there would be some harm from the conversion works and the work to the lightwells, but benefits which can be secured by condition significantly outweigh the harm such that the requirements of the Development Plan, the Framework and the 1990 Act with regard to designated heritage assets would be met

Conditions

21. Both main issues indicate that both planning permission and listed building consent may be granted, and in the eventuality of that finding, the Council suggested conditions in each case.

22. In the planning permission, the appellant has objected to the need for cycle storage as being unworkable, and given the nature of the access and the location of the flat, this would appear to be the case; any external provision would risk causing harm to the listed building and the conservation area. If this was a matter of provision being made or permission being refused, the lack of the provision on the drawings should have prompted a reason for refusal.
23. The clothes drying condition would be better phrased as a need for a scheme showing method and location along with venting arrangements, to allow the use of a tumble-drier as sought by the appellant. A further condition regarding the provision of railings as proposed for the listed building consent should be added to the planning permission. A condition naming the 'as proposed' drawings is required in the planning permission only for the avoidance of doubt.
24. On the listed building consent, there is no need to list the drawings by condition as the provisions for greater flexibility in planning permissions do not apply to that regime, it being sufficient to name them in the formal permission. Further details are required of the internal works as suggested and the condition on reclamation of items can be written into the single request for details. The suggested railings condition should follow the appellant's offer to make them an essential feature of the permission and consent, particularly as weight has been attached to the provision, and the detail of finishes can be placed in the single condition.
25. There is a need for certain conditions to be pre-commencement and the appellant has signified agreement to that need in submissions where conditions are suggested to overcome the Council's objections.

Conclusions

26. The proposal would bring into use a part of the listed building that is presently underused, forming a dwelling in a sustainable and accessible location, and hence in line with the Government's objective stated in paragraph 59 of the Framework to boost significantly the supply of homes. The living conditions of the prospective occupiers would be acceptable.
27. There would however be some harm resulting to the listed building and the conservation area, but the provision of railings to the boundary would enhance the character and appearance of the conservation area and the other benefits would outweigh the harm both individually and cumulatively. For the reasons given above, it is concluded that both appeals should be allowed.

S J Papworth

INSPECTOR

Schedule of Conditions Appeal A – Planning Permission

- 1) The development hereby permitted shall be begun before the expiration of three years from the date of this permission.
- 2) The development hereby approved shall be carried out in accordance with the following approved drawings; 17.1136.DPS.PL04D, PL05A and 06A.
- 3) Full details of all external railings around the extended lightwells, or any other form of guarding, together with the railings forming the front boundary treatment shall be submitted to and approved in writing by the Local Planning Authority prior to the commencement of the development and the submission shall include details of finish and colour. The development shall be carried out only in accordance with the approved details and the dwelling shall not be occupied until the approved boundary railings have been installed in their entirety, and they shall be retained thereafter.
- 4) The dwelling hereby approved shall not be occupied until full details of the clothes drying equipment or facilities including venting to avoid the build-up of harmful water vapour, shall have been installed in accordance with details which have been submitted to and approved in writing by the Local Planning Authority and the approved facilities shall be retained thereafter.

Schedule of Conditions – Listed Building Consent

- 1) The works hereby permitted shall be begun before the expiration of three years from the date of this consent.
- 2) None of the proposed internal works to the basement shall be carried out until a full specification and schedule of works and working drawings together with details of any materials to be salvaged, have been submitted to and approved in writing by the Local Planning Authority. The specification, schedule and accompanying drawings shall comply with the conditions of this consent. Any amendment to this specification or to any part of the approved works, including works required by the Building Regulations or shown from a structural survey to be necessary or desirable, shall be approved beforehand in writing by the Local Planning Authority. The approved details shall be undertaken and the work carried out in accordance with the approval given.
- 3) Full details of all external railings around the extended lightwells, or any other form of guarding, together with the railings forming the front boundary treatment shall be submitted to and approved in writing by the Local Planning Authority prior to the commencement of the works and the submission shall include details of finish and colour. The works shall be carried out only in accordance with the approved details and the dwelling shall not be occupied until the approved boundary railings have been installed in their entirety, and they shall be retained thereafter.
- 4) All existing brick pavements shall be retained in-situ unless otherwise approved in writing by the Local Planning Authority.