



Appeal Decision

Site visit made on 25 January 2021

by Nicola Davies BA DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 3 March 2021

Appeal Ref: APP/X2220/W/20/3260630

1 & 2 St Margarets Road, St Margarets Bay CT15 6EQ

- 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 Resilient Homes against the decision of Dover District Council.
 - The application Ref 19/01489, dated 3 December 2019, was refused by notice dated 2 October 2020.
 - The development proposed is demolition of existing pair of semi-detached dwellings and replacement with 3, 2 storey dwellings.
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Decision

1. The appeal is dismissed.

Application for costs

2. An application for costs has been made by Resilient Homes against Dover District Council. That application is the subject of a separate decision.

Main Issues

3. The main issues are the effect of the proposed development on: -
 - a) The character or appearance of St Margarets Bay Conservation Area (the CA) and the setting of the adjoining Listed building, Coastguard Cottages (formerly called Coastguard Cottages and now known as Bay Hill Close); and
 - b) The living conditions of the occupiers of Bay Hill Close, particularly with regard to overlooking and privacy.

Reasons

CA and Listed building

4. The designated CA comprises that part of the village which became fashionable as a tourist destination in the late 1900s when some hotels and large villa-type residences were built. It was subsequently occupied during the Second World War by Armed Forces with many developments replaced following that period. The properties within the CA sited upon the coastal hillside are set in large plots, are individually designed and are surrounded by verdant landscaping. The later developments have retained the essence of the original spacious character of the development upon the hillside. Taken collectively, the area is of heritage and architectural interest and this gives the CA significance.

5. The properties within the vicinity of the appeal site and within the CA are set back from the highway with landscaping being a prominent feature of the immediate area. Similarly to that of the existing development at the appeal site, the properties in the area have a low-key appearance within their generous plots. The existing properties are shrouded by the hedge that runs along St Margarets Road and, to some extent, the vegetation along the Bay Hill boundary, although I observed that the roof of the existing property is visible above the Bay Hill boundary. The existing garden to the east and south of the site has an openness that reflects the spaciousness of the plots within the CA. The current low-key form of development at the site sits comfortably with that of the existing development within this part of the CA.
6. Unlike the existing development the proposed development would be two-storey, comprise three dwellings positioned close to one another covering the full width of the site and projecting further east and south than that of the existing dwellings. The size, form, layout and site coverage would not relate well to the more spacious low-key nature of the development within the CA. Some of the existing landscape vegetation along St Margarets Road would be removed to facilitate driveway access to the properties. The plans that support the proposal illustrate that there would be an increase in height of development above the ridgeline of the existing properties. Being overall a more substantial development than that of the existing it would be more prominently visible from the surrounding area, and particularly in those views where the existing hedge along St Margarets Road would be removed.
7. Further to the above, oblique elevations that would front onto St Margarets Road would lack articulation and, as a result of this, the development would lack visual interest. Although some properties within the CA are set at an angle to the road, a development lacking visual interest would be at odds with the varied and more characterful appearance of properties within the immediate area. Whilst the boundary hedge would provide some screening, elements of the proposed development would be situated closer to St Margarets Road than that of the existing development and the oblique elevations would, to some extent, be visible along the driveway accesses to the properties.
8. The size, tight knit layout, design and form of the proposal would not reflect the existing development within this part of the CA. Collectively the group would appear as an overly large and visually dominant development when viewed in the context of the surrounding low-key residential development. I do not consider that the proposal would respond positively to the character or appearance of the existing development that characterises the area, and corresponding to this, would not preserve or enhance the character or appearance of the CA. Consequently, the proposed development would appear as a discordant development within the context of this CA.
9. I saw that the appeal site is visible from St Margarets Road and the Memorial Ground at Bay Hill. Therefore, the visual harm arising from the development would be readily apparent in public views from the surrounding area. Utilising a green palette, as opposed to white render, would not overcome these concerns.
10. A Landscape and Visual Appraisal (LVA) provides photographs of the appeal site from publicly accessible viewpoints. Those views show aspects within the

surrounding area from which public views penetrate the site. The key observation points as I see it are those from Granville Road; the Memorial Ground; along St Margarets Road looking north east toward the appeal site; and looking north from Bay Hill where the existing dwellings are visible above the existing boundary vegetation. I acknowledge that views into the site are more prevalent in some of these views than others. I also consider the proposed development would be clearly visible to the existing occupiers of Bay Hill Close and from the rear garden associated with it. Glimpses of the site can be obtained from the coastal path, however given these are wider distance views, the site would not be so visually prevalent in such longer ranging vistas.

11. The Landscape Strategy indicates that by filling vegetation gaps with native shrubs at the corner of St Margarets Road and Bay Hill, as well as along Bay Hill, this would screen the site in public views. I consider this would assist in mitigating the appearance of the development in public views from Granville Road and The Memorial Ground. Nonetheless, the proposal would retain the existing access at the south west corner of the site and open up a significant section of the hedged frontage along St Margarets Road to provide access to Plots B and C. The LVA significance of impact suggests that visibility of the development would reduce over a 10-year period. The development and the harm that I have identified would be clearly visible from St Margarets Road via these accesses. Given these accesses form part of the design and layout of the proposed development, the visual harm arising from the development would endure in these views. In addition, the visual harm would also be readily apparent to the occupiers of Bay Hill Close.
12. I have been referred to a number of recent planning permissions/developments that have taken place within the vicinity of the appeal site and have been provided the details of a new dwelling on garden land between 10 and 16 Granville Road. I note that the trees along the front boundary were a consideration in that case, however that proposal did not fall within the CA. Therefore, the considerations pertaining to that development were not constrained by the more stringent assessment of preserving or enhancing the character or appearance of the location that applies in this case.
13. The others referred to me are sites within the CA. The White House related to a new dwelling within the grounds of that property. There is separation between the respective developments with both properties being set within sizeable spacious sites. Despite hosting well established boundary screening, the circumstances of that proposal in the context of the character and appearance of the area and CA is quite different to that of the proposal before me. The development at Dial House involved the replacement of the existing dwelling and the erection of a new dwelling within its site. Similar to The White House example that proposal allowed for dwellings set respectively within sizable spacious sites with separation between the developments. I consider the circumstances of the site and the proposed development that is before me is quite different to those examples highlighted and, as such, the proposal can and should be considered on its own individual merit.
14. The former Coastguard Cottages building at Bay Hill Close is Grade II Listed. The appellant's Planning and Heritage Statement provides historic photographs that show that the land to the rear formed part of the garden of the listed cottages, however, the garden has recently been sub-divided and a proportion is now part of this appeal site area. Nonetheless, this open land to the rear of

the cottages, due to its historic use as garden associated with the cottages, forms part of how this heritage asset is experienced. The garden to the south of the existing properties contributes to the open and spacious setting at the rear of the Listed building. Views into the site from the surrounding area give some insight into the original layout of the former cottages with the elevated garden land and openness of the landscape to their rear.

15. The significance of this designated heritage asset is the historic interest of the Coastguard Cottages and the garden that belonged to it. Looking at the present-day situation this setting is still readily discernible, and corresponding to this, is of historic significance.
16. The proposed dwelling at Plot A, and the decked areas associated with Plots A and B, would encroach into the open land and into that land that was historically the garden related to the Listed cottages. This encroachment of built development would be detrimental to both the character and appearance of the setting of the Listed cottages, as well as their special interest, and therefore the proposed development would be harmful to their significance. Furthermore, I do not consider the proposal to be of an acceptable size, layout and form within the setting of the Listed Coastguard Cottages. Whilst I understand that the land may be surplus to the requirements of the occupiers of the cottages, this does not however justify the harm that would arise to the setting of the Listed building as a result of the proposed development.
17. My attention has been drawn to the development to the rear of The Shrubby. That development is a relatively small-scale proposal that I observed has a first floor contained within the roofscape. That development is recessed into the topography of the land and with its low eave height assimilated successfully within its location and the staggered development upon the hillside and, as such, would complement the development within the CA. Also for this reason, it does not compete visually with the Listed cottages, noting also that it does not fall within its immediate setting, unlike that of the proposal before me.
18. The National Planning Policy Framework (the Framework) indicates 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. Any harm to the significance of a designated heritage asset from development within its setting will require clear and convincing justification. The Framework is clear that where a proposed development 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 optimal viable use.
19. The proposed development would be harmful to the designated asset of the listed Coastguard Cottages. I consider there would be less than substantial harm to this designated heritage asset, and I give this considerable importance and weight. In addition, given the size and scale of the proposal effecting the CA as a whole, I consider there would be less than substantial harm to the character or appearance of the CA and the proposal would neither preserve or enhance it.
20. In accordance with paragraph 196 of the Framework I must weigh the harm against the public benefit of the proposal. The development would contribute to the District housing supply, being an uplift of one family dwelling at the site. It would be constructed using a super-structural insulated panel system that

would provide a high level of insulation and that can be constructed quickly without the necessity for heavy plant and equipment to be utilised. This would be in line with the Council's zero carbon aims to tackle climate change. There would be some modest employment benefit during the construction phase of the development and the proposal would make efficient use of an existing residential site. Whilst these are attributes of the scheme, the contribution and benefit to the public, in my view, would be extremely modest, and insufficient to outweigh the harm identified.

21. I conclude that the proposed development would fail to accord with national policy that requires special attention to be given to the desirability of preserving or enhancing the character or appearance of a CA (Section 72(1) of the Planning (Listed Building and Conservation Areas) Act 1990). With regard to the Listed building, I conclude that the proposed development would fail to accord with national policy that requires special regard to be given to the desirability of preserving the setting of a listed building (Section 66(1) of the Planning (Listed Building and Conservation Areas) Act 1990).
22. For these reasons, I conclude that the proposed development would be harmful to the character or appearance of the CA and the setting of the adjoining Listed building, Bay Hill Close. The proposal would, therefore, conflict with paragraphs 127, 130 and 170 of the Framework that seek, amongst other matters, development to function well and add to the overall quality of the area, be visually attractive as a result of good architecture and layout, be sympathetic to local character and history including the surrounding built environment and landscape setting, maintain a strong sense of place and to improve the character and quality of an area.
23. I do not consider Policy DM15 of the Dover District Council Core Strategy that relates to land beyond the defined settlement applies in this case as the preamble to this policy indicates that it does not apply to land within the curtilage of a building, which is the case here.

Living conditions

24. The proposed dwellings would host large decks and sizeable openings in the south east elevations, along with first floor and roof terraces that would run the full length of each dwellings south east elevation. These would face and create outlook toward Bay Hill Close from all of the proposed three dwellings, although at a slightly off-set angle. The land slopes downward toward Bay Hill Close, which in itself sits at a lower level to the existing open land to its rear. As a result, the proposed dwellings along with their outdoor decked areas would have an elevated siting in relation to the residential properties at Bay Hill Close.
25. There are a considerable number of windows along the rear elevation of Bay Hill Close. Also, an area of garden would be retained at the rear associated with that neighbouring existing development. Given the number of places over three levels that observation could be achieved from the proposed three dwellings toward the rear of Bay Hill Close, overlooking with corresponding loss of privacy would be extremely likely to take place. The slight off-set angle of the properties would not obviate this. Although there would be separation between the proposed development and Bay Hill Close, potential observation would be exaggerated by the elevated nature of the proposed development to that of the lower siting of Bay Hill Close.

26. The landscape strategy illustrates that a landscaped hedge with trees could be planted along the northern boundary of the site. Even if future matured landscaping would reduce actual overlooking from taking place, given the elevated siting of the proposed development, the occupiers are extremely likely to experience the uncomfortable perception of being overlooked. Whether it be actual or perceived overlooking that would take place, either way this would harm the living conditions of the existing occupiers of Bay Hill Close. These are living conditions that the existing occupiers should reasonably expect to enjoy. Loss of privacy, or perception of, would substantially diminish the enjoyment of their homes and associated outdoor living space.
27. I have been provided with drawing g1828-602-PL02 that illustrates cross sections through the site and proposed development that incorporates illustrative landscaping along the northern boundary that includes an existing tree at the site. Given the proximity and elevated siting of the landscaped hedge to Bay Hill Close, this could create an oppressive living environment for the occupiers of Bay Hill Close, which in turn would be harmful to the living environment of the occupiers. Furthermore, whilst the existing tree could be retained, noting that it is protected by virtue of the CA designation that is in place, I saw that it is not an evergreen species and would not protect views during winter months. In addition, its canopy would not extend across the width of the site, therefore, this limits the screening such tree could provide.
28. Like that of the development in the wider area of St Margarets Bay the appeal site topography declines on the hillside. I accept that this is a characteristic of the development, noting the staggered nature of the dwellings at 3, 5 and 7 St Margaret's Road. The photograph on page 38 of the Design & Access Statement submitted in support of the proposal shows this to be the case. Whilst this is the characteristic of the hillside development at St Margarets Bay, this does not obviate the need to ensure the living conditions of existing occupiers are given due consideration when new development is proposed upon the hillside.
29. For these reasons, I conclude that the proposed development would be harmful to the living conditions of the occupiers of Bay Hill Close particularly with regard to overlooking and privacy. The proposal would, therefore, conflict with paragraphs 124 and 127 of the Framework that seek, amongst other matters, development to achieve high quality places in which to live with a high standard of amenity for existing and future users.

Other matters

30. The appellant has commented within the appeal statement that inter-looking between plot A and plot B, and, plot B and plot C has been raised by the Council. However, it does not appear to me that the Council has raised this as an issue of concern within its Officer report.
31. The site would be close to the bus stop on Bay Hill and footpaths would link the site to St Margarets centre. Whilst the accessibility to services and facilities for occupiers is a merit of the scheme, this does not overcome my above concerns or justify the proposed development.
32. I have been provided with various correspondence that has taken place between the appellant and the Council whilst the planning application was before the Council. Within the appeal concern has been expressed over the

Council's processing of the planning application highlighting that the proposal had been subject to the Council pre-application advice service. The conduct of the Council is not a matter that is primarily before me in respect of this appeal. Whilst I note the frustrations the appellant may have experienced this is a matter that, if necessary, should be raised with the Council away from this appeal. This matter has not had any bearing on the decision I have reached nor would this lead me to alter my above findings.

Conclusion

33. Having regard to the above findings, the appeal should be dismissed.

Nicola Davies

INSPECTOR