



Appeal Decision

Site visit made on 10 May 2022

by F Wilkinson BSc (Hons), MRTPI

an Inspector appointed by the Secretary of State

Decision date: 25 May 2022

Appeal Ref: APP/Z2260/W/21/3286847

104 Northdown Road, Margate CT9 2RE

- 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 S Mayhew of Maybank Homes against the decision of Thanet District Council.
 - The application Ref F/TH/21/0920, dated 7 June 2021, was refused by notice dated 14 September 2021.
 - The development proposed is the erection of detached commercial unit to rear of site fronting Clifton Place.
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Decision

1. The appeal is dismissed.

Applications for Costs

2. An application for costs was made by Mr S Mayhew of Maybank Homes against the Council. This application is the subject of a separate decision.

Preliminary Matters

3. Reason for refusal one on the Council's decision notice refers to a conflict with Policy QD03 of the Thanet District Council Local Plan adopted 2020 (the Local Plan). The Council has confirmed that the relevant policy is Policy QD02. I have determined the appeal on this basis.

Main Issues

4. The main issues are the effects of the proposed development on:
 - the living conditions of occupiers of 104 Northdown Road, with particular regard to outlook and loss of light; and
 - the character and appearance of the area, including the Northdown Road Conservation Area.

Reasons

Living Conditions

5. The rear elevation of the proposed building, which would include a number of obscure glazed and top opening windows, would face the rear elevation of the property at 104 Northdown Road. No. 104 comprises a retail unit at ground floor fronting onto Northdown Road and a residential use. Based on the submitted evidence and my own observations, there are habitable rooms to the

- rear of no. 104 with windows at semi-basement, ground and first floor levels in the rear elevation.
6. Notwithstanding that the Council does not have guidance on the minimum expected distances between properties, Policy QD03 of the Local Plan requires that development should not lead to unacceptable living conditions through overshadowing, loss of natural light or sense of enclosure amongst other matters. The appellant has referred to the guidance on separation distances in the Kent Design Guide. However, there is no evidence on the status of this document. Furthermore, it appears to have been referred to in the former Local Plan, and my attention has not been drawn to a similar reference in the current adopted Local Plan.
 7. The appellant's information illustrates that the proposed building would sit at a higher level than the semi-basement level of no. 104. The two-storey element of the proposed building would be around 10.5 metres from no. 104, although the single storey element would be closer.
 8. The existing outlook from the rear windows at the semi-basement and ground floor levels of no. 104 is already somewhat restricted due to the proximity of the building on one side of the appeal site and the rear extension of the property on the other side. The proposed building would exacerbate this overbearing effect. In addition, the proximity of the proposed building together with its elevated position in relation to the semi-basement windows in particular would appear dominating and intrusive for occupiers of that residential unit. The proposed development would therefore result in an undue sense of enclosure and oppressive outlook for residents within 104 Northdown Road.
 9. The appellant considers that the relationship of the proposed building to no. 104 would be better than that which the adjacent building has with the commercial unit to its rear. Whilst this may be the case, it does not alter or outweigh my conclusion on this issue.
 10. The appellant states that their 'plan 2' shows the predicted availability of sunlight on the ground at the equinox and was provided by the BRE Trust. Plan 2 illustrates that the shadow cast by the proposed development would not reach the rear windows of no. 104 on 21 March. However, it is not clear whether this plan has been prepared in accordance with the available guidance on establishing the potential effect of a development on the daylight and sunlight received by habitable room windows of existing properties as opposed to outdoor amenity areas¹.
 11. Given the orientation of the proposed building in relation to the rear elevation of no. 104, and its height and proximity, it appears to me that there would be some loss of light and overshadowing that would affect at least the sub-basement and potentially ground floor windows. In the absence of any evidence to convince me otherwise, it appears likely to me that the levels of light lost, and overshadowing caused to those windows would be sufficient to cause unacceptable harm to the living conditions of residents of the residential unit served by those windows.

¹ For example, Site Layout Planning for Daylight and Sunlight, A Guide to Good Practice, BRE Trust 2011

12. I therefore conclude that the proposed development would significantly harm the living conditions of occupiers of 104 Northdown Road on account of its impact on light received by, and outlook from, windows located within the rear elevation of that building. Consequently, the proposed development would conflict with Policy QD03 of the Local Plan which has been summarised above.

Character and Appearance

13. The appeal site is part of the rear yard area of the property at 104 Northdown Road. It fronts onto Clifton Place and is within the Northdown Road Conservation Area (the Conservation Area). The National Planning Policy Framework (the Framework) recognises that great weight should be given to a heritage asset's conservation. Any harm to or loss of significance of a designated heritage asset requires clear and convincing justification. The statutory requirements² entail that special attention be paid to the desirability of preserving or enhancing the character and appearance of a conservation area.
14. From the evidence that is before me and my observations, the Conservation Area closely follows the line of Northdown Road and the buildings that front on to it. It covers a predominantly commercial area with mainly retail and other commercial uses at ground floor level and office and residential uses above, although there are also a number of solely residential buildings. On this basis, the significance of the Conservation Area in part derives from the range of commercial premises that are indicative of the commercial growth of this part of Margate during the late 19th and early 20th century alongside its development as a seaside town, and the evidence it provides of the architectural style and building techniques of the time.
15. The property at 104 Northdown Road has some significance within the Conservation Area due to its mixed commercial and residential uses. This would be unaffected by the proposed development. The proposed building would not be visible from Northdown Road. However, the character of the Conservation Area derives from the buildings, layout and surrounding spaces as a whole. Whilst views of the proposed development would be relatively limited within the wider area, this does not obviate the need for a high-quality design that preserves or enhances the character or appearance of the Conservation Area.
16. Clifton Place is a relatively narrow road that provides access to the rear of the properties on Northdown Road and the rear of the gardens of the dwellings on Clifton Road. Along the length of Clifton Place in the vicinity of the site there are service yards, a range of outbuildings which are mainly single storey ancillary buildings such as garages, and lengths of boundary walls and fencing.
17. The proposed development would be read within the context of this road. The site is bounded to one side by an open rear yard and a relatively substantial brick building to the other. Although the proposed development would have a greater height and mass than many of the outbuildings in the vicinity, it would be of a comparable scale to the adjacent building. Whilst its eaves height would be greater, this would not be readily apparent given the limited potential for viewing the eaves of both buildings concurrently. In most views, the proposed development would be seen in conjunction with the façade of this adjoining building which comprises a parapet wall of a similar height to that proposed.

² Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990

18. Whilst most buildings that front onto Clifton Place are single storey, there are examples of two storey properties within view of the site. The proposed building would take up much of the site's width and would be positioned close to what is a relatively narrow road. However, I do not believe that the proposed building would appear unduly overbearing in the street scene given the context of the existing urban grain. In addition, the palette of materials proposed, being brick walls, timber windows and a slate roof, would be consistent with many of the nearby buildings.
19. Overall, therefore, within the context of the varied built development along Clifton Place, the proposed building would not appear as an overbearing, incongruous or discordant form of development.
20. For the above reasons, I conclude that the proposed development would not harm the character and appearance of the area. It would have a neutral effect on the Conservation Area's significance and would preserve its character and appearance. The proposed development would therefore accord with Policies QD02 and HE02 of the Local Plan, which seek to promote or reinforce the local character of the area and require new buildings in conservation areas to respond sympathetically to their context, amongst other matters. It would also accord with the design objectives of paragraph 130 of the Framework and paragraph 197 which requires that account is taken of the desirability of sustaining and enhancing the significance of heritage assets and new development making a positive contribution to local character and distinctiveness amongst other considerations.

Other Matters

21. The proposal would provide a workspace, with the application form indicating two employees, and would have the potential to add to the vitality of the area. This would be a benefit, however the weight that I can ascribe it in terms of its scale is inevitably limited and would not alter or outweigh my conclusions on the harm caused.

Conclusion

22. I have found in the appellant's favour in regard to the second main issue. However, this would amount to a lack of harm which would be incapable of outweighing the harm that would arise in regard to the first main issue. This would result in conflict with the development plan as a whole. There are no material considerations, including the approach of the Framework, worthy of sufficient weight that would indicate a decision otherwise than in accordance with it. The appeal should therefore be dismissed.

F Wilkinson

INSPECTOR