



Appeal Decisions

Site visit made on 1 June 2023

by David Prentis BA BPI MRTPI

an Inspector appointed by the Secretary of State

Decision date: 6 June 2023

Appeal A Ref: APP/Z2260/W/22/3300905

East Northdown House, East Northdown, Margate CT9 3TS

- 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 P Miles against the decision of Thanet District Council.
 - The application Ref OL/TH/19/0802, dated 10 June 2019, was refused by notice dated 16 February 2022.
 - The development proposed is described as *outline application for the erection of 2No detached single storey dwellings including access, scale, layout and landscaping*
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Appeal B Ref: APP/Z2260/Y/22/3295151

East Northdown House, East Northdown, Margate CT9 3TS

- 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 P Miles against the decision of Thanet District Council.
 - The application Ref L/TH/21/1313, dated 17 August 2021, was refused by notice dated 4 January 2022.
 - The works proposed are described as *structural repair works and relocation of existing Regency Bay from north elevation to south elevation*.
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Decision – Appeal A

1. The appeal is dismissed.

Decision – Appeal B

2. The appeal is dismissed.

Preliminary matters

3. The Appeal A application was submitted in outline with access and landscaping to be considered at this stage and appearance, layout and scale to be considered as reserved matters. The proposal was described as:

"erection of two dwellings with access from existing garage access."

4. In the course of considering the application, the Council changed the description to that set out in the heading above. Although the appellant now queries whether there was agreement to such a change, the grounds of appeal include the following statement:

"One significant amendment to the originally submitted application was the addition of scale to matters for determination. The application was

supported by plans showing single storey accommodation with an eaves level of 2.4 metres and a ridge level of 4 metres...”

5. Moreover, the submitted drawing *Plans and Elevation of Stable Type Bungalows* is annotated “*All Detail Apart from Size of Footprint and Scale shown for Illustrative Purposes Only.*” I conclude that, at the time the Council determined the application, it was the intention of the appellant that the scale and footprint of the dwellings would be determined at that stage. The amended description of development reflects that approach. I have therefore determined the appeal on the basis that access, scale, layout and landscaping are to be determined now, with appearance to be a reserved matter. Insofar as the plans show the appearance of the proposed dwellings, I have treated that information as illustrative.
6. As the proposals are in a conservation area and relate to listed buildings and their settings, I have had special regard to sections 16(2), 66(1) and 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (The Act).

Main issues

7. The main issues for Appeal A are:
 - the effect of the proposal on the historic environment, including on the Northdown Conservation Area and on the settings of East Northdown House, Cottage Adjoining East Northdown House to the Southwest (now known as Mockett Cottage) and East Northdown Cottage with Barn Attached, which are Grade II listed buildings;
 - the effect of the proposal on the living conditions of the occupiers of East Northdown Cottage; and
 - the effect of the proposal on the Thanet Coast and Sandwich Bay Special Protection Area and Ramsar Site and the Sandwich Bay and Hacklinge Marshes Site of Special Scientific Interest.
8. The main issue for Appeal B is the effect of the proposed works on the special interest of East Northdown House and on the character and appearance of the Northdown Conservation Area.

Reasons – Appeal A

Effect on the historic environment

9. The Northdown Conservation Area covers Northdown House and its associated parkland together with a group of listed buildings at East Northdown. Much of Northdown Park is now a public park providing open space and sports pitches. Nevertheless, the historic parkland character is evident in the landscape, which includes areas of woodland and avenues of mature trees.
10. The listed buildings at East Northdown are grouped on either side of a private road. Those on the west side include East Northdown House, Mockett Cottage and East Northdown Cottage. East Northdown Farmhouse is to the east. The road has the character of a rural lane. It is bounded by walls of varying heights and materials, mainly brick or flint. The area has a verdant appearance with open spaces and mature trees and vegetation around the buildings.

11. The conservation area has a tranquil character. Largely set apart from the late 19th and 20th century suburban development which has grown up all around it, it provides attractive green spaces which recall earlier times. All of these features contribute to the character and appearance of the conservation area.
12. The listing description states that East Northdown House dates from the early 18th century, although a heritage assessment provided by the appellant states that parts of it may date from the 17th century. It also has later ranges, dating from the early 19th century, when the building was extended and bay windows were added at ground and first floor levels to the front (east) elevation, together with a porch with fluted columns. Mockett Cottage is a more modest two-storey cottage, dated 1721, located immediately to the south west of East Northdown House. East Northdown Cottage is also close by, on the opposite side of a shared access way leading to the site of Appeal A. It is a two-storey, flint-faced cottage dating from 1731, attached to a flint-faced barn which has been converted to living accommodation. East Northdown Farm House is also described as dating from the 18th century.
13. The listed buildings have architectural interest, as examples of these building types. They also have historic interest through the fabric they retain and the evidence they provide of the development of East Northdown as a farmstead. The listed buildings form a coherent enclave, possessing a group value which adds much to their individual significance. The whole group is included in the conservation area, providing an important component of the significance of the designated area. Similarly, the setting within the conservation area makes an important contribution to the significance of the individual listed buildings.
14. The appeal site is an area of open garden land backing onto the park. It forms part of a swathe of greenspace, both wooded and more open, lying between the buildings along the west side of the lane and the park. The appeal scheme would fragment this space, subdividing it with new plot boundaries and introducing an essentially suburban form of development. The proposed dwellings, which would be 4m in height, would be visible from the adjoining park, notwithstanding that there are some trees along the boundary. They would erode the sense of the park being set apart from the surrounding suburban development. This would be harmful to the character and appearance of the conservation area.
15. Moreover, the open nature of the appeal site is important to the settings of the listed buildings described above, particularly those on the west side of the lane. This is because the spaces around and behind the listed buildings form part of the surroundings in which the listed buildings are appreciated. They enable the group as a whole to be understood as the farmstead it once was.
16. The appellant argues that the land is already within a residential curtilage and that the buildings in the conservation area have changed over time, with some being added, to reflect a change to predominantly residential use. Whilst that may be so, I saw that these changes have largely preserved the coherence of the group of listed buildings and the predominantly green surroundings in which they are set. In particular, I note that a new garage serving East Northdown House, which was under construction at the time of my visit, has been set at a level that is well below the level of the appeal site. It is in a position that is more closely related to the built form of Mockett Cottage and East Northdown Cottage.

17. It is also argued that the new buildings would not be widely visible, being to the rear of East Northgate Cottage and its attached barn and the new garage. I consider that the appellant has understated the extent to which the buildings would be visible. Although there would only be a glimpsed view from the lane, the viewer would be conscious of a new layer of development behind East Northdown Cottage. As discussed above, I consider that the proposed dwellings would be clearly visible from the park.
18. There would be no direct inter-visibility between East Northdown House and the proposed dwellings, due to intervening buildings. However, Planning Practice Guidance (PPG) states that, although views of or from an asset will often be an important part of the assessment of impacts on setting, setting impacts are not limited to circumstances where there is a direct visual connection. Other factors may be relevant¹.
19. For the reasons given above, I consider that the appeal site contributes to the setting of all the listed buildings on the west side of the lane. Furthermore, the proposed dwellings would be visible from the garden of East Northdown House and from East Northdown Cottage. These may not be publicly accessible views but the PPG makes clear that the contribution that setting makes to the significance of a heritage asset does not depend on there being public rights of way or an ability for the public to experience that setting.
20. The appellant draws attention to a bungalow which is said to be in a comparable back land location. However, the bungalow in question is well to the north of the listed buildings relevant to this appeal. It does not alter my findings on the importance of the appeal site to the setting of those listed buildings.
21. I conclude that the proposal would fail to preserve the character and appearance of the Northdown Conservation Area. It would also fail to preserve the settings of East Northdown House, Mockett Cottage and East Northdown Cottage. It would conflict with Policies SP36, HE02 and HE03 of the Thanet Local Plan which seek to protect conservation areas and other designated heritage assets.
22. There would be harm to the significance of the conservation area and harm to the significance of the listed buildings, through development in their settings. In the terms of the National Planning Policy Framework (the Framework) the harm would be less than substantial in each case. However, this does not mean that the harm would be minor or unimportant. The Framework makes clear that great weight should be given to conserving the significance of a designated heritage asset. Where a development proposal would 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. I return to that balance below.

Effect on the living conditions of the occupiers of East Northdown Cottage

23. Direct views between the proposed dwellings and windows at East Northdown Cottage would be limited by intervening buildings. Moreover, the separation distance would be sufficient to ensure that there would be no harmful overlooking.

¹ Planning Practice Guidance Reference ID: 18a-013-20190723

24. Access to the proposed dwellings would pass between the southern boundary of East Northdown House and the front of East Northdown Cottage. This is a narrow space, such that vehicles would pass close to the front door and windows of East Northdown Cottage. This access way already provides vehicular access to a garage at Mockett Cottage, to the new garage serving East Northdown House, and to East Northdown Cottage itself. Even so, I consider that the construction of two dwellings at the appeal site would result in a significant increase in the amount of traffic passing through. To my mind, the additional noise and disturbance arising from such traffic would be harmful to the living conditions of the occupiers of East Northdown Cottage, contrary to Local Plan Policy QD03 which seeks to ensure that new development is not harmful to living conditions.

Effect on the Thanet Coast and Sandwich Bay Special Protection Area and Ramsar Site and the Sandwich Bay and Hacklinge Marshes Site of Special Scientific Interest

25. The Thanet Coast and Sandwich Bay Special Protection Area (SPA) is used by large numbers of migratory birds. The site qualifies under Article 4.2 of the Birds Directive through supporting populations of European importance of over-wintering Turnstone and European Golden Plover². The proposal is for new dwellings within the zone of influence (7.2km) of the SPA. There is evidence that additional recreational pressure has had a harmful effect on the bird populations. The Council has developed a strategic approach to mitigating the incremental impact of new housing within the zone of influence on the SPA. This is known as the Strategic Access Management and Monitoring Plan (SAMMP). The SAMMP provides a framework within which individual proposals can contribute proportionately to the cost of the mitigation measures identified by the Council.

26. This matter was addressed in the appellant's grounds of appeal which acknowledged that a unilateral undertaking to contribute to mitigation would be necessary. It was stated that an agreement or undertaking would be submitted. However, there is no such agreement or undertaking before me. In the absence of mitigation being secured, I conclude that the proposal would result in harm to the SPA. It would conflict with Local Plan Policy SP29 which states that all proposals for new residential development will be required to comply with the SAMMP, in order to mitigate the in-combination effects of new development, resulting from recreational pressure on the Thanet Coast SPA and Ramsar site.

27. I have not been provided with any information regarding the Sandwich Bay and Hacklinge Marshes Site of Special Scientific Interest, and the extent to which any impacts there may overlap with effects on the SPA. However, in view of my findings on the appeal as a whole, it is not necessary for me to pursue this matter.

Other matters

28. The Council expressed a concern about the lack of ecological information or mitigation measures. The site comprises managed amenity grassland, which is likely to be of limited biodiversity value. Even so, given the proximity of numerous mature trees, I consider that it may be used as a foraging or commuting habitat. In the absence of any survey or assessment it is not

² The site is also a Wetland of International Importance under the Ramsar Convention (Ramsar Site)

possible to consider appropriate mitigation measures. This is a further matter weighing against the appeal.

29. Comments have been made about the ownership of the lane, which is not an adopted highway, and the extent of any rights or obligations the appellant may have in that regard. However, these are private matters for the landowners concerned. Representations have been made regarding highway safety. I note that the highway authority has not raised any concerns about the use of the lane. From what I saw on my visit, I have no reason to disagree.
30. Comments have been made in relation to three horse chestnut trees which were shown as G1 on the Tree Preservation Order plan of 1985. The Council confirmed in writing that the trees were diseased or dying. I saw that the trees had been felled by the time of my visit, with only stumps remaining³. Other matters raised by residents have already been discussed above.
31. The proposal would make a modest contribution to housing supply in the District, bringing some economic and social benefits.

Conclusion – Appeal A

32. The Framework requires the public benefits of the proposal to be weighed against the harm to designated heritage assets. In this case I do not consider that a modest contribution to housing supply would bring sufficient benefits to outweigh the harm to the conservation area or the harm to the listed buildings. The conclusion is the same, whether the designated assets are considered individually or collectively. The proposal is therefore contrary to the policies of the Framework relating to the historic environment.
33. For the reasons given above, the proposal would be contrary to the development plan. I have not identified any considerations that indicate a decision other than in accordance with the development plan. The appeal should therefore be dismissed.

Reasons – Appeal B

34. The architectural and historic interest of East Northdown House has been described above. As previously noted, the principal elevation faces east, towards the lane. Its current appearance results from changes made over time, with an extension to the north and the addition of two storey bay windows and a porch in the early 19th century. The north and south elevations are side or flank elevations, subordinate to the formal arrangement of the principal elevation.
35. On the north elevation there is a single storey bay containing a pair of doors with glazing above timber panels. Permission has been given for this feature to be removed, to make way for a new conservatory. It is not my role to revisit the merits of that decision. For the purposes of this decision, I note that the joinery and glazing of the bay that would be demolished appear to be contemporary with the two storey bays on the front elevation. It is therefore likely that the bay dates from the alterations that were made in the early 19th century.

³ The representations also covered the question of replacement planting. However, this would be a matter for the local planning authority to comment on.

36. An appeal decision made in 2019 considered a proposal to replace a ground floor side window in the south elevation with a door⁴. At the time of that appeal site visit, the Inspector commented that the window was in a poor state of repair. The window had been installed in the 1960s in a way which, the Inspector noted, had resulted in structural problems. A surveyor's report, dating from 2018, concluded that the window opening was too close to the back of the front elevation. Moreover, the top of the opening was supported by a steel joist that was undersized and not adequately supported at either end. The report recommended reducing the width of the opening, inserting steel ties, removing shuttered flintwork below the opening and forming a new foundation.
37. At the time of my visit, the 1960s window had been removed from the elevation and stored on site. The opening was covered with boards and steel props were in place to provide temporary support to the steel joist. Having regard to the surveyor's report, the findings of the previous Inspector and my own observations, I consider that the insertion of the 1960s window was an unfortunate alteration. Not only was the window poorly proportioned and out of keeping, but it was constructed in a way which caused harm to the structure of the building.
38. The previous Inspector considered arguments about whether there had previously been a door in this location. He concluded:
- "It seems clear to me that there is no evidence which specifically confirms the appellant's contention that there would have been a door present here in the past. His own experts' reports acknowledge that a window or door would have been present. Therefore, there can be no certainty that the appeal proposal is seeking to reinstate a historic feature."*
39. There is no further evidence before me as to what may have been here before the 1960s window was installed. I therefore adopt the findings of the previous Inspector on this matter. The previous Inspector went on to dismiss the appeal because he considered that the proposed door, although smaller and less formal than the front door, would compete with the front elevation and be visually disruptive.
40. The current appeal is for a projecting bay with double doors flanked by windows that would make a stronger architectural statement than the door previously considered. It would therefore erode the hierarchy between the front elevation and the south flank elevation to an even greater degree, competing with the front elevation. It would reduce the ability to appreciate the significance of the listed building.
41. Relocating the existing bay to the southern elevation, as the appellant proposes, would inevitably result in a loss of authenticity resulting from the dismantling and reassembly of the structure. Moreover, although the existing bay is currently part of the listed building, it is tucked away on the northern side of the building where it has little impact on the appreciation of the principal elevation. In contrast, the southern flank is prominent on the approach to the house. Thus, whilst I take account of the fact that some historic fabric would be reused, this does not outweigh the harm to the special

⁴ APP/Z2260/Y/19/3220034

interest and significance of the listed building that would result from the appeal proposal.

42. The proposal as a whole would bring about structural repairs to the listed building, which would be beneficial. Although the repairs are not detailed in the application documents, I have assumed that they would follow the recommendations of the surveyor's report. It would be possible to impose a condition requiring approval of a method statement for the structural repairs. However, implementing the structural repairs identified in the report is not dependant on the appeal scheme. The repairs could be implemented in an equally effective way with a suitably designed new window or with no opening at all.
43. I conclude that the proposal would fail to preserve the special interest of the listed building. This is a prominent and important building in the Northdown Conservation Area. As such, the proposal would fail to preserve the character and appearance of the conservation area. In the terms of the Framework, the harm to the listed building and the conservation area would be less than substantial. I have not identified any public benefits sufficient to outweigh the harm. The proposal would therefore be contrary to the policies of the Framework relating to the historic environment. It would also be contrary to Policies SP36, HE02 and HE03 of the Thanet Local Plan, insofar as they are relevant to this application for listed building consent. It follows that the appeal should be dismissed.

David Prentis

Inspector