



Appeal Decisions

Site visit made on 5 July 2023

by A Price BSc MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 31 July 2023

Appeal A Ref: APP/Z2260/W/22/3299670

9 Marine Gardens, Margate CT9 1UN

- 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 Simply Crafted Ltd against the decision of Thanet District Council.
 - The application Ref F/TH/22/0101, dated 20 January 2022, was refused by notice dated 23 March 2022.
 - The development proposed is described on the application form as 'the proposal reconfigures the existing ground floor retail unit which is altered to be accommodated across the ground and lower ground floor. The equivalent area of the existing lower ground floor B1 unit is replaced with a new 1 bed flats at lower ground floor and an alteration at ground floor level that extends the existing 1 bedroom flat into a new three bedroom apartment. The residential units at upper floors remain unaltered.'
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. Notwithstanding the description of development set out above, which is taken from the application form, it is clear from the plans and accompanying details that the development comprises the change of use of lower ground floor from B1 use to part retail (Use Class E) and part residential incorporating 1 No 1 bed flat together with part change of use of ground floor retail unit and store to residential to allow conversion of first floor 1 bed flat into a 3 bed apartment with alterations to fenestration at the rear. The Council dealt with the proposal on this basis and so shall I.
3. I note the appellant's name on the appeal form is inconsistent with that on the application form. However, this has been confirmed with the appellant and the correct appellant name is included within the banner heading, above.
4. The appeal property is a Grade II listed building. As such, statute¹ places a duty on me to have special regard to the desirability of preserving the significance of this designated heritage asset. The Council does not object to the proposed development under this appeal on the basis of its effect on the listed building. Based on the evidence before me, and my site visit, I have no reason to disagree with those findings. Moreover, the alterations required to facilitate the proposed development are the subject of a separate appeal decision, under reference APP/Z2260/W/22/3299673. This relates to works to a listed building, which I have found to be acceptable.

¹ Section 66(1) of the Planning (Listed Building and Conservation Areas) Act 1990.

Main Issues

5. The main issues are:

- whether a satisfactory standard of accommodation would be provided for future occupiers, with particular regard to play space; and
- the effect of the proposed development on the integrity of the Thanet Coast and Sandwich Bay Special Protection Area.

Reasons

Standard of accommodation

6. Policy GI04 of the Thanet Local Plan (LP, 2020) sets out that new family-sized dwellings (those containing two or more bedrooms) should incorporate garden space in order to provide safe doorstep play space for young children. The policy defines doorstep play space as that which is immediately adjacent to, closely visible and safely accessible from the dwelling it serves. The policy goes on to state that in exceptional circumstances, where it would be impractical to provide such play space, then a financial contribution may instead be acceptable.
7. Whilst the proposed development forms the conversion of an established and historic building, it would nonetheless result in the creation of a new family-sized dwelling of more than two bedrooms. A separate one-bedroom dwelling would be positioned at ground floor level.
8. I accept that there are limited opportunities to provide meaningful doorstep play in this location. However, that the proposed scheme is not a new-build or major development does not, in my view, relieve the development of any financial contributions in lieu of providing physical play space. Moreover, the location of the site relative to the seafront and Marine Gardens Park, as noted by the appellant, does not outweigh or overcome this requirement.

In the absence of any planning obligations before me in respect of financial contributions towards play space, I conclude that the proposed development would be contrary to the relevant provisions of LP Policy GI04, which in summary seeks to ensure adequate play space is provided for family-sized units. This is in a similar vein to the objectives of paragraph 130 of the Framework insofar as the promotion of health and well-being, and a high standard of amenity for future users is concerned.

Thanet Coast and Sandwich Bay Special Protection Area

9. The appeal site lies within the zone of influence of the Thanet Coast and Sandwich Bay Special Protection Area (SPA). This site was designated due to the importance of its habitats.
10. All public bodies have a duty to take reasonable steps to further the conservation and enhancement of this designated area. Natural England advises that there is the potential for significant impacts on the SPA as a result of any net increase in residential development within the zone of influence. This is due to pressures on the site by reason of its attractiveness as a location for recreation.

11. The Conservation of Habitats and Species Regulations 2017 require competent authorities, before granting consent for a plan or project, to carry out an appropriate assessment in circumstances where the plan or project is likely to have a significant effect on a European site, alone or in-combination with other plans or projects.
12. The proposal is not directly connected with or necessary for the management of the protected site and on-site mitigation would not be possible. I must therefore consider whether measures could be put in place to avoid or mitigate the impact of the pressure arising from the proposed development, which would comprise the creation of a new family unit, on the protected sites, and the effectiveness of any proposed measures.
13. The Council's Strategic Access Management and Monitoring Plan (SAMM, 2016) provides a strategy to mitigate the potential impacts of new housing development on the protected sites. This includes wardening at the sites, signage and interpretation, and the monitoring of birds and visitors. A tariff has been developed and is applied to new housing built within the zone of influence.
14. The Council sets out that a financial contribution of £424 is required. The appellant sets out that they accept the need for a payment to be made. However, they argue that it is disproportionately burdensome for small developments given the legal costs and timeframe required to administrate. I have some sympathy for the appellant who claims that a financial contribution towards the SAMM was paid shortly after the application was registered, in response to a request from the Council. However, the Council did not confirm that this was later deemed incorrect, and the shortfall required was not rectified. I also acknowledge that the figure sought is relatively small.
15. Nevertheless, Policy SP29 and the SAMM are clear in respect of financial payments, and I have no reason to disagree with those requirements in this instance. Moreover, there is no substantive evidence before me that the correct financial contribution has since been paid to the Council, nor is there a legal agreement, draft or otherwise, before me setting out a mechanism for the payment of this contribution. That the requested figure is relatively small is not reason for it not to be paid as its effects are cumulative.
16. Overall, I conclude that the proposed development has the potential to result in unmitigated adverse effects on the integrity of the SPA, contrary to the relevant provisions of LP Policy SP29, which in summary seeks development to comply with the SAMM. This is in a similar vein to paragraph 180 of the Framework and the Habitats Regulations.

Other Matters

17. The site is also located within Margate Conservation Area (CA). Statute² places a duty on me to pay special attention to the desirability of preserving or enhancing the character or appearance of the CA. There is no dispute between the main parties in this respect. Bearing in mind the position, nature and extent of the proposal, I consider that it would have a neutral effect on, and would therefore preserve, the character and appearance of the CA as a whole. As such, the proposed development would not harm the significance of this

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

heritage asset. Nevertheless, the lack of harm in these respects does not weigh for or against the appeal and does not alter my conclusion on the main issue.

Conclusion

18. Whilst I have found that the proposal before me would preserve the Grade II listed building and the character and appearance of the CA, I have found the scheme to be unacceptable for other reasons, namely in respect of the standard of accommodation for future occupiers and the effect of the proposed development on the integrity of the Thanet Coast and Sandwich Bay SPA.
19. Therefore, having taken account of the development plan as a whole, the approach in the Framework and all other relevant material considerations, I conclude that the appeal should be dismissed.

A Price

INSPECTOR