



Appeal Decision

Site visit made on 4 October 2023

by N Thomas MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 11th October 2023

Appeal Ref: APP/P2114/W/22/3307587

2 Victoria Avenue, Shanklin PO37 6PQ

- 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 Mrs P Downer against the decision of Isle of Wight Council.
 - The application Ref 22/00162/FUL, dated 26 January 2022, was refused by notice dated 24 March 2022.
 - The development proposed is Demolition of Shop, Construction of two houses.
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Decision

1. The appeal is dismissed.

Main Issues

2. Having regard to the reasons for refusing the application, the main issues are:
 - The effect of the development on the character and appearance of the surrounding area, having particular regard to the Shanklin Conservation Area (CA),
 - The effect on the living conditions of the occupiers of 73 High Street and whether the development would provide adequate living conditions for future occupiers of the development, in terms of outlook and privacy.

Reasons

Character and appearance

3. The CA covers a large part of Shanklin, which grew from a small medieval settlement to a spa and seaside resort. The area immediately around the appeal site is characterised by associated Victorian development. The site is located within the Chine and Old Village character area of the CA, adjacent to the High Street. The Chine and Old Village focuses on the historic core of the village, while the High Street is more compact and commercial with predominantly three storey terraced properties. The appeal site is to the rear of the High Street, facing onto Victoria Avenue which has a generally more spacious and residential character.
4. The shop is single storey and flat roofed. It virtually fills the width of the plot, in the gap between the rear of No 73 High Street on three storeys and the adjacent two storey property on Victoria Avenue. The shop is clearly a modern insertion into the street scene and does not reflect the design, scale or form of its neighbours. It is simple and functional with a stepped frontage and a low profile. As a result, the shop allows the gap separating the taller properties either side to be readily apparent in the street scene. The openness of the site marks the transition between the densely developed High Street and the more

spacious pattern of development to the rear. For these reasons I consider that the site currently makes a neutral contribution to the significance of the CA.

5. The development would replace the shop with a part single and part two storey building. It has been designed to broadly reflect the predominant Victorian form but lacks the detailing and visual interest of the neighbouring properties. It would not reflect the proportions and scale of its neighbours and would appear out of place in the street scene. It would infill much of the upper-level gap and would result in a dense form of development that undermines the clear transition between the High Street and the more spacious character of Victoria Avenue. It would not therefore make a positive contribution to the street scene and would be harmful to the CA. There is no firm evidence that there was a taller building previously on the site, as suggested by the appellant. Whether permission would now be granted for the existing shop is not a matter that is before me. In any event, I do not agree that the proposal is an improvement on the existing building, which for the reasons set out above makes a neutral contribution to the CA.
6. The development is therefore harmful to the character and appearance of the surrounding area, having particular regard to the CA. It would conflict with Policies DM2 and DM11 of the Isle of Wight Core Strategy Island Plan March 2012 (CS), insofar as they seek to ensure that proposals positively conserve and enhance the historic environment. As a result, it would fail to preserve or enhance the character or appearance of the CA, contrary to the requirements of the Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990.
7. In accordance with paragraph 199 of the National Planning Policy Framework (NPPF), great weight should be given to the conservation of the designated heritage asset. In the context of the CA as a whole, I consider the harm to the significance of the designated heritage asset to be less than substantial. In accordance with paragraph 202 of the NPPF, the harm should be weighed against the public benefits of the proposal. I will deal with this later in this decision.

Living conditions

8. The ground floor at the rear of No 73 is in use as a flat. It has bedroom and kitchen windows looking onto the narrow yard to the rear of the shop. There are no other ground floor windows looking onto the yard although there is a door giving access to it from the small storage area/office space at the rear of the shop. Overall, the bedroom and kitchen currently have a high degree of privacy as the rear yard appears to be little used, but their outlook is restricted due to the proximity of the existing shop building.
9. The replacement of the shop with a taller building on a slightly reduced footprint would mean that the built form would be further away from the bedroom and kitchen windows. However, the two-storey bulk of the new building would be close to the windows of No 73 and would further enclose its already restricted outlook. Furthermore, the proposed site plan indicates that each of the two proposed dwellings would have their own amenity space to the rear. I share the Council's concern that occupiers may seek to create some privacy through the erection of walls or fences which is likely to reduce any beneficial effect on the outlook from the windows. It is therefore unlikely that

the outlook from the flat at No 73 would be significantly improved by the proposal as suggested by the appellant.

10. The proposal includes a rear door serving the bedroom area of the studio flat. Although not specified on the drawings it seems likely to me that the door would include glazing in order to provide some natural light and outlook to the bedroom. Outlook would be towards the kitchen window of the existing flat at No 73. This would result in direct overlooking between the two residential units, adversely affecting the privacy of both the existing flat and the proposed studio flat. There would also be views from the rear amenity space of the studio flat towards the bedroom and kitchen windows which would be harmful to the privacy of occupiers of No 73.
11. The proximity of the development to the existing wall of No 73, directly opposite the proposed glazed door to the studio flat, means that any glazing within the door would provide only a restricted outlook to the rear. The two-bedroom dwelling would be set closer to the rear boundary of the site, with outlook across the narrow outdoor amenity space towards the small rear yard to the rear of No 73. The yard is not currently divided from the appeal site by any wall or fencing, but if used for residential purposes for No 73 it would be in very close proximity to the proposed rear windows of the larger unit, affecting the privacy of existing and future occupiers.
12. The appellant suggests that overlooking could be prevented by requiring the rear windows of the new units to be obscure glazed. This would mean that the bedroom area of the studio flat and the kitchen area of the two-bedroom dwelling would have no outlook and would be reliant on the windows to the front of the property. I do not consider that this would result in suitable living conditions for future occupiers. The use of fencing or other means of enclosure to divide the amenity spaces could create some privacy but is likely to restrict outlook.
13. I therefore conclude that the development would be harmful to the living conditions of the occupiers of No 73 and would fail to provide adequate living conditions for future occupiers, in terms of outlook and privacy. It is thus in conflict with CS Policy DM2, which seeks, amongst other things, to ensure that development optimises the potential of the site but has regard to existing constraints such as adjacent buildings. It would also conflict with the NPPF.
14. I appreciate that the site is in a built-up area where some residential units have limited or no outdoor amenity space. Future occupiers may not require large outdoor amenity spaces and the site is well located for access to public open space, but this does not override my concerns in relation to living conditions for existing and future occupiers. While there would be some limited improvement to access to daylight and outlook for the existing flat at No 73, this would not be sufficient to outweigh the harm I have identified.

Other Matters

15. The fourth reason for refusal relates to the need for a contribution towards affordable housing provision. The appellant has provided a signed unilateral undertaking and the Council has confirmed that this resolves their objection. Given that I am dismissing the appeal for other reasons it has not been necessary for me to consider this matter in any further detail.

Planning balance and conclusion

16. The proposal would provide two residential units in a constrained area where there is an acknowledged shortfall in the supply of housing land. The proposal is said to be viable and achievable and would make efficient use of previously developed land. The town centre location provides access to local facilities and services in Shanklin. Due to the limited size of the development, I give these considerations modest weight.
17. I accept that the building requires some maintenance and is operating at a loss. I note that an appeal¹ has previously been dismissed for two dwellings on the site. The appellant considers that the reasons for dismissing the appeal have been overcome, but I have found that it is harmful for the reasons set out above.
18. The site is within The Bay Key Regeneration Area where the proposal would accord with the spatial strategy and housing delivery aims set out in CS Policies SP1 and SP2. The Council does not object to the loss of the retail use, and a unilateral undertaking has been provided to meet the Council's requirement for contribution to the provision of affordable housing. These matters indicate that the proposal complies with other policies in the CS and are neutral considerations that do not weigh in favour of the proposal.
19. Public benefits do not therefore provide clear and convincing justification to outweigh the harm I have identified to the significance of the CA as a designated heritage asset. The proposal would therefore conflict with the relevant policies of the NPPF. The policies in the NPPF provide a clear reason for refusing the development and the 'tilted balance' in paragraph 11(d)(ii) does not apply.

Conclusion

20. For the reasons set out above, and having regard to all matters raised, I conclude that the appeal should be dismissed.

N Thomas

INSPECTOR

¹ Ref APP/P2114/W/20/3248179