



Appeal Decision

Site visit made on 13 October 2023

by Lewis Condé Msc, Bsc, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 15th January 2024

Appeal Ref: APP/E2205/W/22/3309618

26 Bank Street, Ashford, Kent, TN23 1BE

- 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 Shen Ufuk against the decision of Ashford Borough Council.
 - The application Ref 21/02178/AS, dated 20 June 2022, was refused by notice dated 25 August 2022.
 - The development proposed is Proposed erection of first and second floor extension to provide 4 self-contained flats.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. In refusing the application the Council, amongst other matters, has referred to the proposal being contrary to both Policies ENV13 (Conservation and Enhancement of Heritage Assets) and ENV14 (Conservation Areas) of the Ashford Local Plan 2030 (adopted 2019) (the Local Plan). The appellant suggests that Policy ENV13 is not relevant to the appeal scheme given that Policy ENV14 deals specifically with conservation areas. Although Policy ENV14 may provide more detailed requirements in relation to proposals within conservation areas, it remains that these are designated heritage assets and therefore Policy ENV13 is still relevant to the appeal.
3. In December 2023, the National Planning Policy Framework (the Framework) was updated. Both main parties were given the opportunity to provide comments on the implications of the updated Framework to their case. Where comments have been received, I have taken these into consideration.

Main Issues

4. The main issues are the effect of the proposed development on:
 - a) The character and appearance of the Ashford Town Centre Conservation Area;
 - b) The living conditions of potential future occupiers with regard to access to external private open space;
 - c) Highway safety; and
 - d) European Protected Sites

Reasons

Ashford Town Centre Conservation Area

5. The appeal site lies within the Ashford Town Centre Conservation Area (CA). In accordance with the statutory duty established under Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990, as amended (the Act), I have paid special attention to the desirability of preserving or enhancing the character and appearance of the CA.
6. The CA is extensive, encompassing approximately 20ha of the town centre. It comprises a varied and complex townscape of buildings within the historic core of Ashford, many of which are of a high architectural quality and historic importance. Buildings within the town centre are from several periods, including from its early market town period and its expansion during the Victoria era. Accordingly, the character of the CA is diverse. Though overall, I find that the significance of the CA, largely derives from its historic role as a commercial/civic centre, including the historic development of the town's street patterns and its collection of historically and architecturally important buildings.
7. No. 26 Bank Street (no. 26) is a three-storey end of terrace building, located on a corner plot. The building's primary frontage is onto Bank Street but it also has frontage on to Middle Street. It hosts commercial uses at ground floor level, with residential above. The appeal building is likely to date from the mid-19th century and has a neo-Georgian front façade containing sash windows, whilst it also contains decorative detailing including at eaves level. Therefore, despite appearing in need of some external maintenance, the appeal building aligns with many of the distinctive qualities of the 'Bank Street Character Area' that are outlined within the Ashford Town Centre Conservation Area Appraisal and Management Plan (the Management Plan).
8. No. 26 incorporates single storey elements to its rear that front onto Middle Street. The single storey elements appear as more modern additions, and do not share the same architectural quality as the remainder of the appeal building. Nonetheless, due to their scale and positioning they remain subservient to the host building. Notwithstanding their presence, I find that the appeal building, as a whole, makes a positive contribution to the character and significance of the CA.
9. The proposal would retain the front elevation of the appeal building and involve the introduction of a sizeable three-storey rear extension that would effectively cover the entire width and depth of the appeal site's plot. The extension's height and roof form would reflect that of the frontage element of no.26, whilst the proposed external materials/finish are to match the existing building. However, I find that the proposal would result in a highly dominant form of development that would be disproportionate in scale and appearance to the host property and the majority of the surrounding built form. This is due to the overall bulk, massing, and lack of design subtlety that the proposal would display.
10. Although the use of a glass lobby design feature may seek to distinguish the original building from the proposed development, due to its overall scale and bulk the proposed extension would visually compete with and overwhelm the existing well-proportioned host building. Indeed, it would end the positive

effect that the current property exerts on the character and appearance of the CA, thereby failing to preserve it.

11. I appreciate that there is an existing extension to no. 24a Bank Street that the proposal largely seeks to replicate in terms of scale, massing, and form. I do not have the full details of the permission (ref: 16/01623/AS) for that adjacent development. However, from the information before me, I understand that it was approved under a previous planning policy context, whilst that development also entailed the removal of an unattractive extension to the neighbouring building.
12. In any case, I find that the development at no. 24a does not positively contribute to the character or appearance of the CA, nor does it display architectural merit that warrants replication. Furthermore, the current proposal by virtue of its corner location would have greater prominence in the street scene and thereby appear as a far more dominant addition. Consequently, it would draw greater attention to its unsuitable design and result in greater overall harm to the character and appearance of the CA.
13. I also recognise that the proposal may partially block views of the adjacent service yard and rear elevations of the neighbouring shopping centre. The service yard and back of house area of the shopping centre lie outside of the CA, but still somewhat detract from its setting. Nevertheless, views of these areas are largely limited from the CA, whilst the proposal itself would be of an unsuitable design and again would have greater prominence from public vantage points within the CA.
14. Overall, the proposal would be harmful to the character and appearance of the host property and the CA. Given the scale and nature of the appeal development I consider it would cause less than substantial harm to the character and appearance of the CA. Nonetheless, any harm to the significance of a designated heritage asset requires clear and convincing justification. In accordance with paragraph 208 of the National Planning Policy Framework (the Framework), I must weigh the harm against the public benefits of the proposal.
15. The proposal would provide four new dwellings, thereby making a modest contribution to housing provision in an area whereby there has been an undersupply of homes. Additionally, the dwellings would be located within a highly sustainable location, whilst utilising brownfield land. There would also be related socio-economic benefits associated with the delivery of the proposed new dwellings.
16. It is also suggested that the appeal scheme would result in repairs/maintenance being provided to the frontage of no. 26 Bank Street, however, it does not follow that these works are reliant upon the proposed development. As such, I attach little weight to this potential benefit.
17. Given the scale of the proposed development, I find that together the scheme's benefits would be modest, whilst the Framework advises that great weight should be given to the conservation of heritage assets. As such, in this instance, I do not consider the public benefits to outweigh the harm to the designated heritage asset.
18. With this in mind, the appeal scheme conflicts with Policies SP1, SP6, ENV13, ENV14 and HOU3a of the Local Plan. When read together these policies require

development to be of a high quality of design that should protect, conserve and where possible enhance the historic environment.

19. Furthermore, the proposal would also fail to meet the requirements of Section 72(1) of the Planning (Listed Building and Conservation Areas) Act 1990 (as amended) or the Framework insofar as it relates to heritage assets.

Living Conditions of Potential Future Occupiers

20. Local Plan Policy HOU15 requires all new dwellings to be provided with an area of external private open space. The policy also sets out minimum standards in respect of the size and nature of private outdoor space, including in relation to balconies, roof gardens or patios, for flatted developments.
21. The supporting text to Policy HOU15 highlights private outdoor space is one which cannot be overlooked from the street or other public places. It further sets out that developments of flats can be provided with balconies or terrace/roof gardens but acknowledges that easily accessible communal areas may also be acceptable. The supporting text also highlights that a lack of outdoor private space will therefore only be acceptable if there are particular design features which mitigate against the lack of provision.
22. The proposal does not include any private, nor communal, external open space, whilst I do not consider resident's access to a central lightwell would provide sufficient amenity value in lieu of the provision of open space.
23. The appellant has suggested that the proposed development cannot provide external space that will not be overlooked from public vantage points, whilst the lack of external open space has enabled the appeal scheme to incorporate more generous internal accommodation. However, no detailed evidence has been put before me to support these views. For example, consideration of other scheme designs, including changes to layout or dwelling numbers. Accordingly, I find that the lack of provision of private open space conflicts with the requirements of Policy HOU15.
24. That being said, I am mindful that the proposals are for one-bedroom properties in an urban location. As such, the expectations or demands of future occupiers for private open space may be somewhat reduced. Due to the surrounding site context, the provision of balconies/roof garden(s) may also not provide a particularly desirable space for future residents to utilise, for example due to their outlook and setting. Furthermore, although not private, the site is conveniently located to public parks/large areas of public open space that future residents would be able to easily access for recreational purposes.
25. In respect of this main issue, I find that the proposal would cause harm to the living conditions of future residents through the lack of provision of external private open space. It therefore conflicts with Local Plan Policy HOU15. However, whilst I consider it desirable to provide future residents with private outdoor space, taking into account the characteristics of the appeal site, its situation and the nature of the proposed development, I find that the harm would be somewhat limited.

Highway Safety

26. The appeal proposal does not include the provision of any vehicle parking spaces.

27. Local Plan Policy TRA3 outlines the Council's parking standards for development. The purpose of the policy is seemingly to promote highway safety and placemaking. In respect of residential development, Policy TRA3(a) expects a minimum parking standard, on average, of 1 space per residential unit to be delivered on sites in the town centre and central areas. However, the policy also recognises that flexibility in the application of the standards is required. As such, the policy also outlines various exceptions whereby a departure from the stated standard can apply. This includes whereby specific local circumstances, for example, the site's accessibility to shops, services, and public transport options, suggest a lower level of parking provision.
28. The appeal site is located in a highly sustainable location within the town centre and with easy access to a wide range of facilities and services that would sustain day-to-day living. The site is also well related to bus services and Ashford International Train Station. As such, any future residents of the proposal would not be dependent on the use of a private car.
29. Furthermore, Paragraph 115 of the Framework provides that development should only be prevented or refused on highway grounds where there would be an unacceptable impact on highway safety or where the impacts on the road network would be severe.
30. There is limited available parking in the immediate vicinity of the site, but public car parks are located nearby, while I understand that the site is in a controlled parking zone. Given that future residents would not necessarily be dependent on the use of a private car, I am not convinced that the proposal would result in increased parking pressures or illegal parking that would lead to highway safety issues.
31. Despite no parking provision being proposed, due to the site's specific circumstances, I am satisfied that there would be no harm to highway safety. Therefore, in respect of vehicle parking and highway safety, I find that the proposal accords with the aims of Policy TRA3 and the Framework.

European Protected Sites

32. The appeal site is located within the Stour River Catchment, which feeds into Stodmarsh Lakes to the east of Canterbury. Stodmarsh Lakes are designated as a Special Protection Area (SPA), Ramsar site, Special Area of Conservation (SAC), and a Site of Special Scientific Interest (SSSI). Parts are also designated as a National Nature Reserve (NNR). These designations of national and international importance mainly relate to the wetland habitats that can be found at Stodmarsh Lakes, which support wetland bird species and breeding habitats.
33. The integrity of these wetlands rely upon their quality of water. Natural England has previously advised that there are excessive levels of nitrogen and phosphorous in the Stodmarsh Lakes and so the water quality is in an unfavourable condition. Additionally, developments, such as housing, that result in additional waste-water discharge within the Stour River catchment (or particular waste water treatment works) have the potential to lead to further deterioration. Whilst the appeal proposal is for only four dwellings, it is nonetheless necessary to consider its effects on the protected sites in line with Natural England's 'precautionary principle'.

34. The appellant highlights that no nutrient off-setting measures can be provided at the appeal site or elsewhere under the appellant's ownership. Instead, the appellant sets out an intention to utilise 'credits' as part of the Council's emerging 'Stodmarsh Mitigation Strategy' (SMS). I understand that the SMS is to include a package of potential mitigation measures, which is likely to include the opportunity for developers to purchase credits towards the provision of strategic mitigation scheme(s) to off-set the effects of their proposals.
35. The Council has previously advised that the SMS has yet to be finalised and is therefore not active. Whilst I am unaware of the latest status of the SMS, given that I am dismissing the appeal on other grounds, I have not considered this matter further. It has therefore not been necessary for me to carry out an Appropriate Assessment as required by the Conservation of Habitats and Species Regulations 2017.

Other Matters

36. The appellant indicates that there may be opportunities for the appeal scheme to provide biodiversity enhancements, however, no such benefits have been demonstrated. Accordingly, this does not weigh in favour of the appeal scheme.
37. It is suggested by the appellant that the appeal scheme will allow more effective use of under-utilised land, but given the harm to the character and appearance of the area, including a designated heritage asset, I do not find this to be an effective use of the site.

Planning Balance

38. The appeal scheme would conflict with the development plan as a whole, for reasons previously identified.
39. The Council acknowledges that it cannot demonstrate a five-year housing land supply, which leads me to paragraph 11 of the Framework. This states that where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date, permission should be granted unless one of the two limbs of paragraph 11(d), (i) or (ii), indicates otherwise.
40. In this instance, I have found the harm to designated heritage assets would outweigh the public benefits of the scheme. Accordingly, the application of policies in the Framework that protect designated heritage assets provide a clear reason for refusing the proposed development in accordance with paragraph 11(d)(i). As such, the presumption in favour of sustainable development does not apply.

Conclusion

41. The proposal would conflict with the development plan when taken as a whole and material considerations, including the Framework, do not indicate that a decision should be made other than in accordance with it. The appeal is therefore dismissed,

Lewis Condé

INSPECTOR