



Appeal Decisions

Site visit made on 8 May 2024

by A James BSc (Hons) MA MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 20 May 2024

Appeal A Ref: APP/Z2260/W/24/3336765

9 Marine Gardens, Margate, Kent CT9 1UN

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
 - The appeal is made by Simply Crafted Ltd against the decision of Thanet District Council.
 - The application reference is F/TH/23/1062.
 - The development proposed is described 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 existing lower ground floor B1 unit is replaced with a new 1 bed flats [sic] 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 rear window of the family unit is extended to allow access to a new terrace area. The residential units at upper floors remain unaltered.'*
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Appeal B Ref: APP/Z2260/Y/24/3336762

9 Marine Gardens, Margate, Kent CT9 1UN

- The appeal is made under section 20 of the Planning (Listed Buildings and Conservation Areas) Act 1990 (as amended) against a refusal to grant listed building consent.
 - The appeal is made by Simply Crafted Ltd against the decision of Thanet District Council.
 - The application reference is L/TH/23/1063.
 - The works proposed are described 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 existing lower ground floor B1 unit is replaced with a new 1 bed flats [sic] 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 rear window of the family unit is extended to allow access to a new terrace area. The residential units at upper floors remain unaltered.'*
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Decisions

1. Appeal A is dismissed.
2. Appeal B is dismissed.

Preliminary Matters

3. As the appeal property relates to a Grade II listed building, which lies within a Conservation Area (CA), 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).

4. The reason for refusal for Appeal B relates solely to alterations to the first floor window on the rear elevation. The Council does not object to the other proposed internal or external works. Based on the evidence before me and my site visit, I have no reason to reach a different view to the Council on the other internal or external works. In these respects, I find that the special interest of the listed building would be preserved and its significance as a designated heritage asset would not be harmed.

Main Issues

5. The main issues are:

- whether a satisfactory standard of accommodation would be provided for future occupiers of the 3 bed flat, having particular regard to playspace; and,
- whether the proposal would preserve a Grade II listed building, known as '7-12, Marine Gardens, 12A, Marine Gardens' (Ref: 1203814), and any of the features of special architectural or historic interest that it possesses.

Reasons

Standard of accommodation

6. Policy GI04 of the Thanet District Council Local Plan July 2020 (the Local Plan) requires that dwellings that have 2 or more bedrooms are expected to incorporate garden space in order to provide a safe "doorstep" play area for young children. This policy defines "doorstep" playspace as that which is immediately adjacent to, closely visible and safely accessible from the dwelling it serves. Policy GI04 states that in exceptional circumstances where it would be impractical to provide adequate and suitably located playspace as part of the development, then a financial contribution towards playspaces and amenity areas may be acceptable.
7. The appeal property is a four storey mid-terrace property, which has a basement. The proposal seeks to create a new 3 bedroom flat, which would be split level, occupying part of the ground and first floors. A roof terrace is proposed, which would be accessible via an enlarged window on the first floor rear elevation.
8. The proposed roof terrace would be sited immediately adjacent to the flat and would be visible from its rear facing windows. The appellant advises that the proposed balustrade would comply with Building Regulations and be of sufficient height and detailing to prevent climbing or injury to small children. Nevertheless, the proposed terrace would be sited two storeys above the ground level at the rear of the property. Given the height of the proposed terrace above ground level, I find that the proposal would not provide a suitably located or safe play area for children. Furthermore, there is no planning obligation before me in respect of financial contributions towards off-site playspace.
9. For the reasons given above, I conclude that the proposal would fail to provide an adequate standard of accommodation for future occupants of the 3 bed flat. The proposal would therefore conflict with Policy GI04 of the Local Plan, which among other things requires that dwellings, which have 2 or more bedrooms

are expected to incorporate garden space in order to provide a safe “doorstep” play area for young children.

Historic Environment

10. The appeal property forms part of a Grade II listed building, which comprises of 7-12 Marine Gardens and 12A Marine Gardens. The terrace dates back to the 19th century. The principal elevation overlooks public gardens and the seafront and is highly prominent in views from the public realm. The rear elevation is visible from the road to the rear. The appeal site lies within the Margate Conservation Area (CA).
11. Based on my site visit and the evidence before me, I find that the listed building’s special interest and significance insofar as is relevant to these appeals is derived from its historic and architectural interest, as an illustration of a 19th century stepped Georgian terrace. I acknowledge that the Council and a previous Inspector found the special interest of the building to be primarily derived from the architectural form of its front elevation and the surviving historic fabric. In addition to these aspects, I find that the functional rear elevation, which also includes historic fabric; the fenestration; and, associated legibility of the internal hierarchy of floors within the building contributes to the special interest of the listed building.
12. The proposal seeks to enlarge an existing window on the first floor rear elevation, to facilitate access to the new terrace. The Council advises that this window has recently been replaced without consent. Both main parties agree that the window is a modern 21st century window. The existing window is a timber framed, double glazed sash window, which the appellant advises mimics the original window. The size of the window currently matches the window above.
13. The appellant states that the window lintel appears to be original and would be retained. While the proposal seeks to reuse the existing brick cill, the proposal would require the removal of a number of brick courses below the existing window, which would result in the loss of historic fabric. The proposed enlarged opening would also appear out of proportion with the window above and fail to respect the simplicity of the window arrangement on the historic part of the rear elevation of this property. While I appreciate that there are a variety of window sizes, designs and materials on the rear elevation of the terrace and the more modern extension below, this does not justify the loss of further historic fabric or alterations to a historic window opening.
14. The appellant advises that the proposal would appear similar to the traditional sash windows already consented to the front of the property. I appreciate that vertically aligned windows are present on the front elevation of the terrace. However, the front elevation has a more elaborate and grander character than the rear elevation. Nevertheless, the proposed window opening would be larger than any of the existing windows on the front elevation and would appear out of keeping on the more functional, historic part of the rear elevation of the building. The increase in size of the window opening at this level would also disrupt the legibility of the internal hierarchy of floors within the building.
15. For the reasons given above, I find that the proposal would fail to preserve the special interest of the listed building and would harm the significance of this designated heritage asset.

16. Paragraph 205 of the National Planning Policy Framework 2023 (the Framework) advises that when considering the impact of development on the significance of designated heritage assets, great weight should be given to the asset's conservation. Paragraph 206 advises that significance can be harmed or lost through the alteration or destruction of those assets and that any such harm should require clear and convincing justification. Given the nature and extent of the proposal, I find the harm to be less than substantial in this instance but nevertheless of considerable importance and weight.
17. Where a proposal would lead to less than substantial harm to the significance of a designated heritage asset, paragraph 208 of the Framework advises that this harm should be weighed against the public benefits of the proposal, including, where appropriate, securing the asset's optimum viable use.
18. In respect to the public benefits, the provision of a new family sized flat would make a small contribution to the Council's housing stock, which I give limited weight in my decision. The proposal would also result in investment into the property, which would have a small economic benefit, which carries limited weight in favour of the proposal.
19. The appellant considers that the enlargement of the window would be a benefit as it would provide access to an area of amenity space. For the reasons given above, I do not find that the proposed terrace provides a suitable area of outdoor amenity space for children. Moreover, the roof terrace is already accessible via an existing door from the first floor rear elevation of the building. As a result, I find no public benefit in this regard. There is also no substantive evidence before me that the proposal is necessary in order to secure the optimum viable use of the asset.
20. Overall, there would be limited social and economic public benefits from the proposal. Consequently, in attributing considerable importance and weight to the identified harm to the significance of the designated heritage asset, I find that there would be insufficient public benefits arising from the proposal to outweigh this harm.
21. Given the above, I conclude that, on balance, the proposal would fail to preserve the special interest and significance of the listed building and would fail to satisfy the requirements of the Act and paragraph 203 of the Framework. The proposal would also conflict with Policy HE03 of the Local Plan, which requires that proposals that affect designated heritage assets are assessed in accordance with the criteria in the Framework. As a result, in respect of the section 78 appeal, the proposal would not be in accordance with the development plan.

Planning Balance

22. The Council is unable to demonstrate a 5 year supply of deliverable housing sites. In such circumstances, paragraph 11 d) of the Framework advises that the most important policies for determining the appeal are deemed to be out-of-date and planning permission should be granted, unless policies in the Framework that protect areas or assets of particular importance provide a clear reason for refusing the development, or any adverse impacts of doing so would significantly and demonstrably outweigh the benefits.

23. The proposal would fail to preserve the special interest of the listed building, which is a designated heritage asset. Consequently, the application of policies in the Framework that protect designated heritage assets provides a clear reason for refusing the proposed development. As a result, the presumption in favour of sustainable development does not apply in this case.

Other Matters

24. The site lies within the Margate CA. Both parties agree that the proposal would not harm the significance of the CA. Nevertheless, I have paid special attention to the desirability of preserving or enhancing the character or appearance of the CA in my decision. The CA includes part of the seafront and the old town, it also includes numerous public open spaces. The significance of the CA, insofar as is relevant to this appeal, derives from the variety of high quality architecture of differing periods and the public open spaces within it, which signifies the town's evolution as a historic seaside resort.
25. The listed building makes a positive contribution to the character and appearance of the CA as a whole and therefore to its significance. Given the siting and nature of the proposal, I find that the proposal would preserve the character and appearance of the CA as a whole.
26. The appeal site lies within the zone of influence of the Thanet Coast and Sandwich Bay Special Protection Area (SPA). However, there is no need for me to consider the implications upon the SPA, because the scheme is unacceptable for other reasons.
27. The appellant has drawn my attention to other schemes in the area, where the lack of a "doorstep" playspace was not considered to justify a reason for refusal. Three of the other schemes¹ were for 2 bed flats. The proposal is for a 3 bed flat and is therefore more suitable for occupation by families. Furthermore, full circumstances of the other schemes are not before me and I therefore give them limited weight in my decision. While another scheme at 1-2 Belgrave Road² included the provision of 3 bed flats, it appears from the evidence before me that the benefits of this other scheme outweighed the non-provision of the "doorstep" playspace. As a result, this scheme is materially different to the appeals before me, where I have identified clear harm to the special interest of the listed building.

Conclusion

28. For the above reasons and having regard to all other matters raised I conclude that both Appeal A and Appeal B should be dismissed.

A James

INSPECTOR

¹ Application refs: F/TH/16/0545, F/TH/21/0913 & F/TH/22/1668

² Application ref: F/TH/22/1057