



Appeal Decision

Site visit made on 2 July 2024

by E Dade BA (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 18th July 2024

Appeal Ref: APP/Z2260/W/23/3326660

41-45 High Street, Ramsgate, Kent CT11 9AG

- 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 Mr Stephen Melville on behalf of Peppercorn Investments LTD against the decision of Thanet District Council.
 - The application Ref is F/TH/22/1050.
 - The development proposed is erection of a part three storey, part four storey building, together with change of use of part of first floor to accommodate 8No 1-bed flats and 2No 3-bed flats.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. Prior to the Council's determination of the planning application, the proposed number of dwellings was reduced. In the header, I have used the description of development provided on the decision notice which reflects the proposal more accurately than the description stated on the planning application form.
3. As the proposal is in a conservation area and relates to a listed building 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

4. The main issues in this appeal are the effect of the proposed development on:
 - the character and appearance of the Ramsgate Conservation Area and setting of nearby Grade II listed buildings;
 - the living conditions of the occupants of nearby dwellings, with particular regard to daylight, sunlight, and outlook;
 - highway safety; and
 - local infrastructure.

Reasons

Character and appearance

5. The site encompasses a large, two-storey retail building with a shopfront facing the High Street. Behind the building, a service yard with loading bay abuts Broad Street and has a vehicular access to Hardres Street.

6. The site is within the Ramsgate Conservation Area (CA) which covers an area encompassing the historic core of the town, the marina, and parts of the seafront. The site is in the CA's Historic Commercial Core Character Area.
7. The character area comprises a range of historic buildings of differing ages which, along with the historic street pattern, narrow passages and courtyards, allows appreciation of the historic and architectural interest of the town centre and contribute to the CA's significance.
8. At the rear, the site is enclosed by large metal gates and walls, the flat roofed building steps down to single storey height and a metal enclosure surrounds the loading bay. From Broad Street and Hardres Street, the site has a functional appearance which detracts from the area's character. With the exception of the interwar façade, no 41-45 High Street is highlighted as an opportunity for enhancement by the CA Appraisal.
9. No 3 Hardres Street, a Grade II listed building, abuts the site boundary. No 3 is a three-storey dwelling with a basement which was constructed around 1810. The building is constructed of stock brick with a rendered return elevation, plain tiled roof behind a parapet, two-storey canted bay, sash windows, and front door in a semi-circle surround.
10. To the immediate west of the site is Grade II listed building, no 51a High Street, a three-storey building, constructed around 1810 of stock brick, and part rendered, with a parapet to the roof. The ground floor has arched openings, with a six-panelled door with a semi-circular fanlight. The first and second floors have two prominent bow windows with sash windows.
11. On the opposite side of Hardres Street, nos 2-4 form a pair of Grade II listed buildings from the early 19th century, constructed of stock brick with a slate roof. The buildings are three storey height, with a basement, parapet and central stack and No 4 is painted. There are two sash windows with vertical glazing bars on 2nd and 1st floors and two bow windows at ground floor level.
12. No 53 High Street sits at the junction of Broad Street and High Street and is a Grade II listed bank with office chambers dating from 1910. No 53 is described as a striking building of refined architectural character with an assured presence, nicely detailed composition with sculptural embellishments using Portland stone worked to a high standard of craftsmanship.
13. The above features contribute to the special historic and architectural interest of those listed buildings. The listed buildings comprise examples of the wide range of buildings which contribute to the historic and architectural interest of the CA, and therefore contribute positively to the CA's character. The appeal site and listed buildings group are prominent within the street scene of Hardres Street. The appeal site therefore lies within the setting of Grade II listed buildings nos 3 and 2-4 High Street, and nos 51A and 53 High Street.
14. The proposed development would be situated at the rear of the site with frontages to both Broad Street and Hardres Street. The proposed development would therefore be sited in a prominent location.
15. The proposed development's elevation to Hardres Street would be next to listed building no 3 and its terrace row, which also includes listed building no 51A. The CA Appraisal identifies the use of classical proportions and detailing as a key architectural feature of the CA. Such proportions and detailing are present

on the facades of surrounding buildings, including the adjacent terrace row and its constituent listed buildings.

16. The design has sought to address the listing buildings through its materials and architectural features, including matching brickwork, sash windows with brick headers. However, the windows would be of equal size, thus failing to convey a sense of hierarchy, and the proposed uPVC construction would not reflect the materials of surrounding buildings.
17. To avoid a blank elevation, the brick face would include blind windows with setback brickwork. However, the faux windows would be of equal size, would intersect the ground and floor levels, and would not reflect the horizontal alignment of windows at adjacent buildings. The Hardes Street elevation therefore appears generally lacking in detailing, fails to provide visual interest, and would not compliment the proportions and detailing of nearby buildings.
18. Fronting Broad Street, the development would have a modern design with a stepped flat roof which differs significantly in appearance from the side elevation to Hardres Street. The design therefore fails to achieve a cohesive or complimentary appearance between the two sections of the building.
19. The building would have inset and Juliet balconies, and yellow-toned facing bricks with black horizontal timber cladding. Whilst the CA Appraisal identifies brick as a characteristic building material, it identifies a variety of materials and design features that positively contribute to the CA's character. The design of the Broad Street elevation fails to utilise other design features and detailing visible in the surrounding CA to integrate the building into the street scene.
20. The proposed development would step down from four to three storeys on the corner of Broad Street and Hardres Street. However, from Hardes Street and the eastern end of Broad Street, the large blank side of the fourth storey would be prominent above the hipped roof. The proposed development would therefore be visually dominant within the street scene and would appear excessive in scale, and thus out of keeping with surrounding buildings, including the listed building group.
21. The scheme's design was informed by the outline application at no 3 Broad Street and the built development of Kingswood Heights. Both schemes are of modern design with flat roofs, cladding, render and light brickwork, with private amenity spaces. Kingswood Heights is a four-storey development, split into three sections from the front elevation and the no 3 Broad Street scheme includes five storeys, and are within the CA. However, the Kingswood Heights scheme is of similar height to the adjacent buildings, and the development approved at 3 Broad Street is in outline form with the height of the building conditioned to provide a stepped arrangement that transitions between the varying heights of the neighbouring buildings. The character of the street scene on the northern side of Broad Street and in proximity of those identified developments differs significantly from the appeal site and its surrounds. Therefore, I afford only limited weight to the other examples of flatted development identified.
22. As set out above, the height, scale and appearance of the proposed development would fail to reflect the character of surrounding buildings. The proposed development would therefore be of poor design and would appear unacceptably dominant in the street scene. The proposed development would

therefore harm the character and appearance of the area and would have adverse impacts on the character of the CA and setting of the listed building group. The proposal would therefore fail to preserve the special interest of the listed building group and the significance of the CA.

23. Paragraph 205 of the National Planning Policy Framework (the Framework) advises that when considering the impact of development on the significance of designated heritage assets, great weight should be given to their conservation. Paragraph 206 advises that significance can be harmed or lost through the alteration or destruction of those assets or from development within their setting and that this should have a clear and convincing justification.
24. As discussed above, the CA's significance is derived from the historic and architectural interest of its buildings and street pattern. Given the harm to the character of the CA and setting of listed buildings would arise from the proposed development's poor design, prominent siting, and excessive scale, I find the harm to be less than substantial in this instance but nevertheless of considerable importance and weight.
25. Under such circumstances, paragraph 208 of the NPPF advises that this harm should be weighed against the public benefits of the proposal. The proposed development would provide ten new dwellings and would therefore make a moderate positive contribution to the district's housing supply. The site is brownfield land within an accessible, town centre location. The siting of the development would attract modest weight in favour of the proposal. Temporary economic benefits resulting from the construction of the extension to the building would afford further limited weight.
26. The proposal would involve redevelopment of a site which presently has a negative impact on the CA's character. However, since the proposed development would result in harm to the CA, the proposal provides no benefit in this regard.
27. Whilst the proposal would provide public benefits, these would not be of sufficient magnitude to outweigh the great weight that I attribute to the identified harm to heritage assets. I conclude that, on balance, the proposal would fail to preserve the special historic setting of the Grade II listed building and the character or appearance of the Ramsgate Conservation Area. This would fail to satisfy the requirements of the Act.
28. The proposal would therefore conflict with Policies HE02 and HE03 of the Thanet Local Plan 2020 (TLP) which together support the retention of local heritage assets and require development proposals within conservation areas preserve or enhance the character or appearance of the area, and respond sympathetically to the streetscape, and their setting, context and wider townscape. Proportions of features and design details should relate well to each other and to adjoining buildings, and conserve or enhance the significance of all heritage assets and their settings.
29. The proposal would also conflict with TLP Policy QD02 and SP35, which requires development be of high-quality design, respect and enhance the character of the area paying particular attention to context and identity of its location, scale, massing, rhythm, density, layout, and use of appropriate materials.

30. In addition, the proposal would not satisfy paragraph 135 of the Framework which requires development be sympathetic to local character and history, including the surrounding built environment. Notably, paragraph 139 of the Framework requires development that is not well designed be refused.

Living conditions

31. Windows in the rear elevations of nos 1 and 3 Hardres Street and 47, 49, 51 and 51A High Street face onto a small, shared courtyard. No 47 appears to be a retail unit, with other buildings in the terrace row including living accommodation. The terrace row, retail unit and loading dock provide enclosure to the courtyard. The proposed development would further enclose the courtyard with three and four storey development.
32. To avoid overlooking, the proposed development includes no windows facing the courtyard. However, due to its height, scale and close siting, the proposed development would create a significant sense of enclosure and would appear overbearing from the courtyard and rear-facing habitable rooms. The development would therefore harm outlook for occupants of the terrace row.
33. The sunlight path assessment shows the proposed development would overshadow the courtyard and rear elevation of the terrace in the mornings. Through its height and enclosure, the proposed development would result in a loss of daylight.
34. Occupants of those neighbouring dwellings would therefore experience an unacceptable loss of outlook, daylight, and sunlight. The proposed development would therefore harm the living conditions of occupants of nos 1 and 3 Hardres Street, and nos 49, 51, 51A High Street.
35. The proposal would conflict with TLP Policy QD03 which requires development be compatible with neighbouring buildings and spaces and not lead to the unacceptable living conditions, including through overlooking, overshadowing, loss of natural light or sense of enclosure. In addition, the proposal would not satisfy paragraph 135 of the Framework, which requires development create a high standard of amenity for existing users.

Highway safety

36. The service yard at the rear of the site provides staff car parking and includes a loading bay and covered dock with direct access to the retail unit's storeroom. Whilst the retail unit would be retained, the proposed development would result in the loss of the loading bay, displacing parking for large commercial vehicles. The appellant asserts the retail tenants do not have access to the rear of the site. However, the yard remained open and accessible at time of my site visit.
37. The appellant suggests delivery vehicles could make use of the loading bay demarcated within the carriageway of the High Street near the site. However, there is uncertainty whether large vehicles could use the on-street loading bay without obstruction to the highway. The Local Highways Authority has requested additional information regarding the proposed servicing arrangements for the retail unit. However, such information has not been provided. Therefore, the proposal fails to demonstrate the loss of the loading bay would not have a harmful effect on highway safety.

38. The proposal would therefore conflict with TLP Policy TP08 which expects development demonstrate adequate off-street servicing, and paragraph 115 of the Framework which prevents development where there would be an unacceptable impact on highway safety.

Local infrastructure

39. Through construction of additional living accommodation, the proposal would provide an uplift in local population which would place additional demand on local services and infrastructure. Such impacts require mitigation, either through the direct provision of infrastructure or the payment of an appropriate financial contribution.
40. Paragraph 55 of the Framework requires consideration of whether otherwise unacceptable development could be made acceptable through use of conditions or planning obligations. Kent County Council has modelled the impact of the proposal on the provision of its existing services and has identified a need for financial contributions toward community learning, youth services, library services, social care, and waste. The requested contributions are supported by evidence of need, and I am satisfied the contributions would be necessary, directly related, and fairly related in scale and kind to the development, and thus comply with the tests at paragraph 57 of the Framework.
41. The appellant has allocated finances to mitigate the proposed development's effects on local infrastructure. However, no legal agreement has been submitted to secure the financial contributions through planning obligations.
42. In the absence of a mechanism to secure necessary mitigation, I must conclude the proposal would fail to adequately mitigate the development's effects, The proposal would therefore place unacceptable pressure on local infrastructure.
43. The proposal would therefore conflict with TLP Policy SP41 which supports development only where provision is made to ensure delivery of relevant and sufficient community and utility infrastructure.

Other Matters

44. The Council cannot demonstrate a five-year supply of deliverable housing land. Paragraph 11d) of the Framework states permission should be granted unless the application of policies in the Framework that protect areas or assets of particular importance provide a clear reason for refusing the development proposed. As explained at footnote 7 of the Framework, such policies include those relating to designated heritage assets.
45. The appeal proposal would result in less than substantial harm to the character and appearance of the CA and the setting of the group of Grade II listed buildings. I have found the harm would not be outweighed by the public benefits of the development. Therefore, the application of policies in the Framework which seek to conserve designated heritage assets provide a clear reason for refusal. The proposal does not therefore benefit from the presumption in favour of sustainable development.
46. The site is within the zone of influence (ZOI) of the Thanet Coast and Sandwich Bay Special Protection Area (SPA) and RAMSAR, which are European Sites are afforded protection under the Conservation of Habitats and Species Regulations

2017 as amended (the Habitat Regulations). The SPA overlaps the Sandwich Bay to Hacklinge Marshes Site of Special Scientific Interest designation.

47. Natural England advises that population increase in this area should be considered likely to have a significant effect on the interest features for which those European Sites have been identified. The proposal would result in a net increase in dwellings within the ZOI and, whilst the appellant confirms they are able to provide a financial contribution toward the Council's strategic mitigation project, no mitigation measures have been secured through the proposal.
48. Where a proposal is likely to have significant effects on European Sites, Regulation 63 of the Habitats Regulations requires the competent authority carry out an Appropriate Assessment (AA). However, AA is only necessary where the competent authority is minded to grant consent for the proposal. Since I am dismissing the appeal due to identified harms in respect of character and appearance, living conditions, highway safety, and local infrastructure, it is not necessary to subject the proposal to AA.

Conclusion

49. The proposal would conflict with the development plan as a whole and there are no other considerations which outweigh this finding. Therefore, for the reasons given the appeal should be dismissed.

E Dade

INSPECTOR