

Appeal Decision

Site visit made on 7 August 2024

by Stewart Glassar BSc (Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 20 September 2024

Appeal Ref: APP/Z2260/W/23/3332097

45 Grosvenor Place, Margate, Kent CT9 1UW

- 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 MRPC Property Ltd against the decision of Thanet District Council.
 - The application Ref is F/TH/22/0795.
 - The development proposed is the erection of three storey building containing 8No self-contained flats (1No 3-bed, 5No 2-bed and 2No 1-bed) following demolition of existing building and excavation.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. I have taken the description of development from the Council's decision notice and the appellant's appeal form as it more accurately describes that for which permission is sought.
3. The appellant's appeal submissions included a bat survey and a shadow study. The appeal process should not be used to evolve a scheme and it is important that what is considered at appeal is essentially the same as that on which the local planning authority took their decision and on which the views of interested parties were sought. I have had regard to the 'Wheatcroft' principles including whether the information would materially alter the nature of the development. Given that the information does not fundamentally alter the proposal and other parties have had an opportunity to comment, I am satisfied that no prejudice would arise by my taking it into account.
4. The Council has confirmed that, subject to appropriate conditions, the bat survey overcomes their concerns regarding potential ecological impacts of the development. Accordingly, it is not an issue that I need to assess in my decision.

Main Issues

5. The main issues are the effect of the proposed development on a) the character and appearance of the area, including the effect on the setting of

the Margate Conservation Area and nearby Grade II Listed Buildings; and b) the living conditions of neighbouring occupiers, with particular regard to Nos. 3 and 4 Grosvenor Hill.

Reasons

Character and Appearance

6. The existing building on the appeal site, like many others on the western side of Grosvenor Place, appears within the streetscene ostensibly as a flat roof, single storey building. However, it has been built to reflect the topography and is a two-storey building when viewed from the rear.
7. Unlike most of the neighbouring properties on this side of the road, the building is set back into the site, away from the Grosvenor Place frontage. This provides the property with an open forecourt that is used for parking. Whilst the design and position of the building means that it does not have a significant presence within the street, the layout identifies the site as a whole as something of an outlier within the broader pattern of development. Therefore, the removal of the existing building and the principal of the site's redevelopment is not a contentious issue between the main parties.
8. In comparison to the existing building, its replacement would be positioned further forward and would have a noticeably greater bulk and visual presence. Indeed, when stood directly in front of the site, the resulting built form would be of a scale and massing which would visually jar with the form and appearance of properties on either side of it and whose scale comprise an important part of the prevailing environment.
9. The rear of the building would be three storeys. The additional height and overall scale would be particularly evident when viewed from Belgrave Road and would emphasise the discordant nature of the building. Although the scheme might be proposing to use good quality external materials, they would not overcome the inherent bulk of the building or help to anchor it within its surroundings.

Margate Conservation Area

10. The site is adjacent to, but outside of, the Margate Conservation Area (MCA), which extends over much of the town. There is no statutory protection for the setting of a conservation area, but the National Planning Policy Framework (the Framework) requires that I identify and assess the significance of any heritage asset that may be affected by development, including any contribution made by their setting.
11. It seems to me that the special interest and significance of the MCA, is in part derived from the variety and architectural value of its historic buildings and spaces. These denote the town's evolution as a settlement and seaside resort and respond to the topography of the area. As such, there is variation in size and form of buildings within and around the MCA.
12. This can all be appreciated from various vantage points around the appeal site. Whilst the existing building and forecourt are not particularly positive contributors to the visual character of the area, the building's height and scale is reasonably discreet, enabling the evolution of the MCA to be

appreciated. In this respect, the appeal site makes a positive contribution to the significance of the MCA.

13. In contrast, the proposed building would introduce considerable bulk and height that would be highly visible from a number of views. It would appear incongruous and be an unwelcomed visual interruption that would detract from the historical character of the surroundings. Accordingly, this would harm the character and appearance of the area; and, as development affecting its setting, would cause harm to the significance of the MCA as a designated heritage asset.

Listed Buildings

14. There are also Grade II listed buildings on Grosvenor Place, near the site. I have therefore had regard to section (66)1 of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the Act), which requires special regard be paid to the desirability of preserving listed buildings and their settings.
15. The Grade II listed buildings of Nos. 48-62 Grosvenor Place (evens) are separated from the appeal site by Grosvenor Hill. With the exception of No.48, which is four storeys, they are three storey over basement 19th century houses. Insofar as it relates to this appeal, their historic value is as a group of vernacular residential buildings whose appearance has not been extensively altered over time.
16. Grosvenor Place and Grosvenor Hill form part of the setting of these listed buildings as it allows for them and their historic relationship with the development of the town to be appreciated. This makes a valuable contribution to their significance and special interest. Given the positioning of the proposed building and its distance to these listed buildings, I am satisfied that the proposal would not intrude on the relationship that the buildings have with their setting. The setting and significance of these buildings would therefore not be harmed.
17. The other Grade II listed building is No.64 Grosvenor Place, which is also a 3 storey over basement 19th century dwelling. It is positioned on the opposite side of Grosvenor Hill from the other listed buildings. In terms of this appeal, it has historical value as a vernacular residential building that also forms part of the wider group of similar buildings.
18. It is not only the relationship with the other listed buildings which informs its setting. The proximity of the space immediately in and around the Grosvenor Hill/Grosvenor Place junction is also an important contributor to the building's setting. Given their appearance, neither the appeal site nor No.3 Grosvenor Hill have a positive visual effect upon the setting of the listed building. Nevertheless, views of them are, at present limited.
19. However, the addition of a large and modern, irregularly shaped roof at the appeal site would be seen in certain wider views of this listed building and would be a jarring intrusion, out of keeping within this setting. This would not be sufficiently mitigated by the set back of the roof's apex. In my view, the proposed design and form of the roof, with its asymmetrical-pitch and standing seam finish would have little regard to the character and appearance of the listed building.

20. For the reasons set out above, the proposal would have a negative effect upon, and therefore not preserve the setting and significance of this Grade II listed building. Therefore, the proposal would fail to satisfy the requirements of section 66(1) of the Act in this regard.

Conclusion

21. On this main issue, I find that the proposal would cause harm to the character and appearance of the area, and in particular to the setting of the MCA and No.64 Grosvenor Place and thereby to their significance as designated heritage assets.
22. It therefore fails to comply with Policies QD02 and HE02 of the Thanet Local Plan 2020. These collectively, amongst other things, seek to ensure that proposals relate to their surrounding development and do not detract from the setting of any part of a Conservation Area.
23. The Council has not cited any development plan policies in relation to listed buildings. Nevertheless, the proposal as a whole would fail to accord with the provisions of Section 16 of the Framework which seeks to conserve and enhance the historic environment in a manner appropriate to its significance, as well as the objective of ensuring that development is sympathetic to local character and history.
24. Owing to the scale and nature of the proposals, the degree of harm to the significance of the heritage assets would be less than substantial. I consider this further in the heritage balance below.

Living Conditions

25. The proposed building would generally be on the same alignment as the existing building. However, by virtue of its greater depth and height it would in places be closer to the neighbouring buildings along the northern boundary and more visible to the neighbouring occupants.
26. The proposed northern elevation would contain a number of windows that would overlook the closest neighbours, Nos. 3 and 4 Grosvenor Hill. The appellant suggests that these could be obscurely glazed and/or non-opening. Whilst I am mindful that this could have implications for the quality of the proposed internal spaces, it would still leave a very real perception of the neighbours being overlooked.
27. Both neighbours' gardens already experience a degree of enclosure and restrained outlook, particularly that of No.3. However, this in itself is not a reason to allow harmful additional effects. Given the scale and proximity of the proposed built form along the boundary, the proposal would draw the eye as an unduly domineering presence. It would further reduce current levels of outlook and would "loom" above the neighbour's gardens to an overwhelming degree.
28. The shadow study demonstrates that there would be an impact on these two neighbours on 21 March and 21 December. Whilst the shadowing would lessen as the day progressed, particularly on No.4, there would nonetheless be a noticeable effect on these neighbours. When combined with the other

effects, the enjoyment of these neighbours' garden areas would be significantly compromised.

29. It is suggested that painting the elevation a bright colour would help mitigate some of the impact of the proposal. I do not consider that this would overcome the harm I have identified.
30. To the west, Nos. 30-36 Eaton Road (evens) would adjoin the site. No.32 appears to be a commercial property that occupies the entire site and only has windows onto Eaton Road. Whilst the other neighbours would be aware of the resultant building because of its height, the separation distance means that the building is unlikely to appear unduly overbearing.
31. Given the proposed rear elevation and that the existing building already has windows at first floor level, any potential enhanced overlooking is only likely to arise from one of the recessed balconies serving the top floor. However, the balcony in question serves a bedroom. Furthermore, it is likely that the existing boundary planting, and any enhancement to it, would interrupt views towards these neighbouring properties. As such, the effect on their occupants would not be unduly harmful.
32. The proposed terraces adjacent to No.47 Grosvenor Place would, at the upper levels have the potential to overlook this neighbour. However, the proposed vertical screens and glazing are likely to be sufficient to prevent harmful overlooking. The other recessed balconies appear to be set a reasonable distance from this neighbour and so would not unduly harm their living conditions.
33. Notwithstanding my findings in respect of the neighbours on Eaton Road or at No.47 Grosvenor Place, the effect on the neighbours at Nos. 3 and 4 Grosvenor Hill would be in excess of what might reasonably be expected from the redevelopment of the site. As a result, I find that these neighbour's living conditions would be unacceptably harmed.
34. The proposal would therefore be contrary to Policy QD03 of the Thanet Local Plan which, amongst other things, seeks to ensure new developments are compatible with neighbouring buildings and spaces and do not lead to unacceptable living conditions through such matters as overlooking, overshadowing, loss of light or sense of enclosure.

Other Matters

35. The appeal site lies within the 'Zone of Influence' for the Thanet Coast and Sandwich Bay Special Protection Area (SPA), and Sandwich Bay and Hacklinge Marshes Site of Special Scientific Interest (SSSI). I understand that a proportionate financial contribution would usually be sought in line with the Essex Coast Recreational Disturbance Avoidance and Mitigation Strategy (2020) (RAMS). A Unilateral Undertaking dated 4 November 2022 has been provided which includes provisions for a RAMS contribution to be paid by the appellant. It is a matter I return to later.

Heritage Balance

36. The Framework states that great weight should be given to the conservation of a designated heritage asset, irrespective of whether the harm to its

significance is less than substantial. The Framework also requires the less than substantial harm to the significance of a designated heritage asset should be weighed against the public benefits of the proposal.

37. In terms of the public benefits that would be secured, 8 flats would make an important contribution to the delivery of housing, in an area where there is an undersupply. In addition to increasing the choice of homes, the site is in an accessible location and would also reuse previously developed land, which accords with the Framework and the recent written ministerial statement 'Building the homes we need' (July 2024).
38. There would also be benefits to the local economy at both the construction and occupation phases. Some small social benefits would arise from the new flats and the increased planting and landscaping within the site could also offer some small biodiversity enhancements.
39. The benefits, associated with eight flats would be considerable. However, even taking account of the current housing land supply position, the cumulative weight of benefits would not be sufficient to outweigh the importance and weight that I attribute to the erosion of the setting of the heritage assets that would cause a loss of their significance. The identified heritage harm is therefore unjustified in terms of the approach to heritage set out in the Framework.

Planning Balance & Conclusion

40. As the proposal is contrary to the policies of the Framework relating to designated heritage assets, there is a clear reason for dismissing the appeal. On this basis the approach to decision making set out in paragraph 11(d) of the Framework would not be engaged, despite there being a shortfall in the supply of housing land.
41. Having regard to the effect on the character and appearance of the area, and the heritage assets in particular, as well as the harm to the living conditions of neighbouring occupiers, the proposal conflicts with the development plan as a whole. The material considerations cited in support of the proposal do not indicate that the appeal should be decided other than in accordance with the development plan.
42. As I am dismissing the appeal, it is not necessary for me to consider further the matter of the Thanet Coast and Sandwich Bay SPA, and Sandwich Bay and Hacklinge Marshes SSSI.
43. Therefore, for the reasons given above, I conclude that the appeal should be dismissed.

Stewart Glassar

INSPECTOR