



Appeal Decision

Site visit made on 12 December 2024

by B Pattison BA (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 14 January 2025

Appeal Ref: APP/V2255/W/24/3339087

Thompson Hall, St Michaels Road, Sittingbourne, Kent ME10 3DN

- 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 Ikon Construction Services Ltd against the decision of Swale Borough Council.
 - The application Ref is 23/504128/FULL.
 - The development proposed is Demolition of existing training centre building and erection of new four storey building to form 9 no. Class C3 residential flats (Resubmission of 23/500131/FULL).
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The National Planning Policy Framework (the Framework) was updated on 12 December 2024. However, the sections pertinent to this appeal have not changed to such an extent as to affect the matters raised by the main parties. It has not therefore been necessary to seek their views and the revised version has been referenced in this decision.
3. The appeal submission includes updated drawings which were not before the Council at the time of its decision. It is important that what is considered by the Inspector is essentially what was considered by the local planning authority, and on which interested people's views were sought. In this case, the drawings relate to the removal of some ground floor windows and internal alterations to a bin store. All parties have been consulted and provided with an opportunity to comment on these changes, that are referred to in the appellant's and Council's appeal statements. For these reasons, I consider that there would be no prejudice to any party by considering these amendments. I have therefore determined the appeal on the basis of the amended drawings.
4. The appellant has submitted a signed unilateral undertaking (the UU) pursuant to section 106 of the Town and Country Planning Act with the appeal. I have had regard to the unilateral undertaking in reaching my decision.

Main Issues

5. The main issues are:
 - the effect of the proposal on the character and appearance of the local area bearing in mind the extent to which it would preserve or enhance the character or appearance of the Sittingbourne Conservation Area (the CA);

- the effect of the proposal on the living conditions of future occupiers, with particular regard to privacy and natural light.
- whether the proposal would provide satisfactory provision for the storage and collection of waste; and
- whether the proposal would adversely affect the integrity of the Swale Special Protection Area (SPA).

Reasons

Conservation Area

6. The appeal property comprises halls which are internally linked across two distinct building forms. Firstly, the vernacular hipped roofed part of the building which the appellant's Heritage Statement suggests dates from the early nineteenth century, and a flat roofed eastern element which dates from 1910-20. The property is constructed in brickwork, some of which is painted white with plain tiled roof slopes and brick stacks. It has an arched doorway in its western elevation and a large double door fronting St Michaels Road with decorative detail above. The fenestration is mixed with some older timber casements and some modern uPVC windows.
7. The site is located within the Sittingbourne Conservation Area (CA). The character of this part of the CA and its significance stems from, amongst other aspects, the clusters of historic buildings and the distinctive long and narrow burgage plots which extend back from the linear High Street which follows a medieval route.
8. As the proposal is in a conservation area (CA), I have paid special attention to the desirability of preserving or enhancing the character or appearance of that area, as set out in section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the Act).
9. The Sittingbourne Conservation Area Character Appraisal and Management Plan (2021) (CAMP) also identifies the predominance of eighteenth and early nineteenth century development remaining within the CA. With its characteristic vernacular design dating from the early nineteenth century, the appeal site positively contributes to the character of the area.
10. Immediately adjacent to the application site is the Wesley Methodist Chapel, a publicly accessible grassed area and trees and a historic walkway called Does Alley. Does Alley is an important pedestrian link which reflects the historic burgage plots that extended back from the High Street. The area to the rear of the appeal site provides local views in both directions, towards the appeal site and towards the High Street. These views, within which the appeal property is seen, provide visual interest as they reflect the historic burgage plot extending from the High Street to St Michael's Road and contribute to the significance of the CA and richness of the townscape.
11. Much of St Micheal's Road is dominated by the wide road, heavy traffic and large expanses of surface level car parking associated with the train station and nearby commercial uses. These are harmful to the character of the area, but are located outside the CA. I note that the CA boundaries were reviewed relatively recently. The appeal site was considered to contribute positively to the character or

appearance of the CA, and as a result the CA boundary was left unaltered so that the site remained within the CA.

12. The appellant contends that the appeal building is an amalgamation of two buildings built separately over time resulting in a building that is visually unsightly, with no distinct style or architectural merit. However, it seems to me, that it is factors such as the mix of architectural styles which augment the significance of the building and its unique character within the street scene. In addition, the building is prominently located on a corner plot, with a high level of visibility in the public realm. I note that the public open space to the rear of the appeal site, and the associated changes to level differences, has been created at the expense of the property's original garden. However, this does not detract from the appreciation of the building in views from the rear, including from Does Alley.
13. Overall, as it stands at present, I agree with the Council that the building makes a positive contribution to the CA. Its demolition would cause harm to the character and appearance of the CA, as a whole. This would detract from its significance as a designated heritage asset. In the terms of the Framework, the harm to the CA would be less than substantial.
14. The proposal would be taller than the existing building which it would replace. Its stepped part four storey, part three storey built form would mediate its height and create a transition in building heights towards the Chapel. Consequently, the height of the proposal would not appear at odds to the street scene. I note that the Sittingbourne Town Centre Supplementary Planning Document (2022) states that applications will need to demonstrate how the significance of heritage assets within the town centre will be preserved or enhanced by proposed new building heights and that buildings should not damage the key viewpoints or settings of heritage assets.
15. The proposed development's design is neither innovative in its modernity nor does it effectively use positive design cues from buildings within the CA. I acknowledge that the rhythm of windows and architectural detailing such as hit and miss brickwork would create some visual interest within the proposal's elevations. Similarly, the materials proposed for the dwelling may be broadly acceptable. However, the proposal's blocky and rectangular form would not reflect the building typology found within the immediate grouping of buildings which the appeal site sits within, or the wider CA. Consequently, the proposal would not reinforce the local character of the area, and it would be a harmful feature in the local views from the rear of the appeal site, including from the grassed public space and from Does Alley on its route from the High Street.
16. Due to its lack of articulation the proposal's large expanse of flat roof form would appear as a large, heavy and somewhat unrelenting mass. Furthermore, it would appear at odds to the common pitched and gabled roof forms within this part of the CA. Consequently, the flat roof form would be an uncharacteristic addition to the CA's street scene. The proposal would be very prominent in public views from St Michaels Road looking into the CA, and views within the CA including from Grafton Road, Does Alley and the public space immediately to the rear of the appeal site, thereby emphasising its prominence as an uncharacteristic feature within the streetscene. Overall, the effect of the proposal would be to cause harm to the character and appearance of the CA, as a whole, which would detract from its

significance as a designated heritage asset. In the terms of the Framework, the harm to the CA would be less than substantial.

17. I have been referred to other significant contemporary buildings within the local area, such as the Bourne Place multi-storey car park, The Light, Albany Court and the Sittingbourne Travelodge. I do not have the full details of all these schemes to understand the circumstances by which they exist, however from my observations on site, these buildings appear to be located outside the CA. Whilst the Brewers Yard development is depicted on the appellant's drawings, I note that this site is also not located within the CA. Consequently, these contemporary buildings are not directly comparable to the proposal.
18. The appellant indicates that the building is in a poor state of repair as a result of damage caused by long term water ingress, vegetation growth and decay. Furthermore, the interior no longer provides appropriate modern facilities and therefore is redundant as a community centre or hub. It is not in dispute that extensive remedial works would be required to bring the building back into use. Nonetheless, there is no compelling evidence before me that demonstrates that the building is no longer suitable for conversion to dwellings, or that it is not possible to bring it back into an economically viable use.
19. For the above reasons, I conclude that the proposed development, due to the loss of the characterful appeal building and the visual impact of the prominent replacement building would harm the character and appearance of the surrounding area and would fail to preserve the character or appearance of the CA, as a whole. I therefore find that it conflicts with Policies CP4, CP8, DM14, DM32 and DM33 of Bearing Fruits - Swale Borough Local Plan (2017) (Local Plan). Amongst other things, these policies seek to ensure that the historic environment is safeguarded from harm, the value and significance of conservation areas are maintained, and new development is of a high standard of design and respects local character.
20. In failing to preserve the character and appearance of the CA, I find that the proposed development would, in the words of the Framework result in less than substantial harm to the significance of a designated heritage asset. In such circumstances, the Framework requires that the less than substantial harm should be weighed against the public benefits. The proposed development would provide nine additional windfall dwellings which would contribute to the under-supply of housing in the borough, to which I give significant weight. The appellant indicates the building is designed to ensure that its thermal performance meets or surpasses Building Regulation requirements and that all viable materials will be salvaged from the demolition of the existing building. It has been put to me that the appeal proposals would also make an efficient use of the site. Be that as it may, and despite the significant shortfall in housing land supply, the nature and scale of the proposed development indicates that the public benefits would be moderate. The benefits do not therefore outweigh the harm I have identified to the CA and the great weight given to the conservation of designated heritage assets. The proposed development therefore conflicts with the provisions of the Framework in relation to conserving and enhancing the historic environment.

Living conditions

21. I acknowledge that the amended drawings submitted with the appeal have reduced the number of ground floor windows facing publicly accessible areas.

However, the ground floor window to the living/kitchen area of apartment 1 would look directly onto Grafton Road, a narrow vehicular passageway, which leads to a small parking area and provides pedestrian access to the High Street. The windows would have no set back or defensible space and consequently those using the passageway would be able to see into the main living space of apartment 1, at close range, thereby having an unacceptable impact on the privacy of future occupants.

22. Immediately to the rear of the appeal site is a small area of green public space which adjoins the site's rear boundary. Those accessing the green space would have direct views into the ground floor windows of apartment 2 from close range. As two of the windows would serve a living space and bedroom this would have an unacceptable impact on the privacy of future occupants.
23. Each of the proposed units except apartment 2 would be dual aspect and would receive good levels of light across the day. Whilst apartment 2 would be single aspect it would be served by three windows with a relatively good, open southern aspect and outlook. Given their size, aspect and orientation and based upon the shape and size of the unit, the windows would provide a sufficient level of light for future occupiers of that unit.
24. However, for the reasons outlined above, the proposal would not provide a satisfactory quality of accommodation for future occupiers, with particular regard to privacy. It would therefore conflict with Policy DM14 of the Local Plan which, amongst other things, seeks to ensure that development causes no significant harm to amenity.

Waste storage

25. The main parties agree that the updated drawing submitted with the appeal (Ref: 23044-P110 C) includes a ground floor bin store which is large enough to accommodate the capacity demands for a nine unit development. I have been provided with no compelling evidence to demonstrate that there would not be suitable access arrangements for the 1100ltr refuse bins.
26. The appellant indicates that a caretaker would be appointed. On bin collection days, the caretaker would be responsible for unlocking and opening the bin store's door to provide access for the Council's waste contractor. It seems to me that this would prevent bins being left on the public highway outside the site's red line boundary. Furthermore, the exact details for the storage and collection of refuse and recycling from the site could be addressed by the imposition of a condition requiring the submission and approval of, and adherence to, a waste management plan.
27. I conclude that the proposal would make suitable provision for the collection of waste, and that it would therefore comply with Policies CP4 and DM14 of the Local Plan and the Sittingbourne Town Centre Supplementary Planning Document (2022). Collectively, these require that proposals create safe, accessible and attractive places and cause no harm to amenity.
28. The Council also alleges a conflict with Policy DM7 of the Local Plan with regards to this matter. However, my attention has not been drawn to any words in it that are relevant to this issue. The policy has therefore not been determinative in my decision.

Swale SPA

29. The site is within 6km of the Swale SPA. The qualifying features of the Swale SPA are dark-bellied brent goose, dunlin, and assemblages for breeding birds and waterbirds. The habitats and their associated bird populations can be harmed by disturbance arising from additional recreational visitors to the protected areas. In combination with other proposals, the scheme would be likely to have a significantly harmful effect.
30. The Conservation of Habitats and Species Regulations 2017 (as amended) requires where a project is likely to result in a significant effect on a European site, the competent authority to make an Appropriate Assessment of the implications on the integrity of the site.
31. The North Kent Strategic Access Management and Monitoring Strategy (SAMMS) advises that adverse effects can be mitigated. Such mitigation measures will include awareness raising, on-site wardening, provision of signage and access infrastructure, and provision or enhancement of green space away from the SPA.
32. The appellant does not dispute the need for contributions towards the SAMMS, and has provided a UU with the appeal which secures a per dwelling contribution to fund the strategic mitigation. If I had come to a different conclusion, it would have been necessary for me to undertake the AA and consult with Natural England in order to be certain that the integrity of the protected sites would not be adversely affected. However, as I am dismissing the scheme for other reasons this has not been necessary.

Other Matters

33. The proposal may be compliant with various other provisions of the development plan, such as in relation to being a car-free development and its drainage arrangements. However, the absence of harm or conflict with other relevant development plan policies is a neutral factor and does not weigh in favour of the proposal.
34. The provision of nine dwellings would assist in boosting the supply of homes as supported in paragraph 61 of the Framework. The site is in a location within which proposals which assist the regeneration of the town centre are supported. As a small site, it could be developed quickly and support for such sites, particularly windfall sites within existing settlements, is provided by paragraph 73. The fact that the site is within walking distance of a range of shops and public transport facilities is also a benefit supported by paragraph 111. There would also be modest economic benefits from the construction and the addition of new households to the local area. The Framework also encourages the optimal use of underutilised land and paragraph 125 states that planning decisions should give substantial weight to the value of using suitable brownfield land within settlements for homes, and proposals for which should be approved unless substantial harm would be caused. Combined, I give these factors substantial weight.
35. There is no dispute between the parties that the Council cannot currently demonstrate a five year supply of housing land. Paragraph 11 of the Framework explains that in these circumstances planning permission should be granted unless the application of policies in the Framework that protect areas of particular importance provides a clear reason for refusing the development proposed.

Footnote 7 of the Framework details that this includes policies relating to designated heritage assets.

36. Given that I have found that the development would have a harmful effect on the significance of the CA, the application of the policies in the Framework provides a clear reason for refusing planning permission for the development. Accordingly, paragraph 11d(ii) does not apply in this case.
37. The Framework also sets out, in paragraph 131, that the creation of high quality and beautiful places is fundamental to what the planning process should achieve. The failure of the proposals to represent a high-quality form of development carries substantial negative weight. In addition, paragraph 135 identifies that development should provide a high standard of amenity for future users. These factors weigh heavily against the proposal, and consequently, the harm resulting from the development would demonstrably outweigh the benefits of the scheme.

Conclusion

38. The proposal would conflict with the development plan as a whole and there are no other considerations, including the provisions of the Framework, which outweigh this finding. Therefore, for the reasons given, I conclude that the appeal should be dismissed.

B Pattison

INSPECTOR