



---

## Appeal Decision

Site visit made on 17 February 2026

by **N Bowden BA(Hons) Dip TP MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 17 March 2026

---

**Appeal Ref: APP/Z2260/C/23/3328985**

**43 - 45 High Street, Broadstairs, Kent CT10 1JR**

- The appeal is made under section 174 of the Town and Country Planning Act 1990 (as amended).
  - The appeal is made by Mr J Stern (Chasodim Fund) against an enforcement notice issued by Thanet District Council.
  - The notice was issued on 2 August 2023.
  - The breach of planning control as alleged in the notice is without planning permission, erection of a second floor extension to form 1 No. self contained flat.
  - The requirements of the notice are to: Remove the unauthorised second floor extension OR carry out alterations to the second floor extension so it accords with planning permission with reference F/TH/21/0611.
  - The period for compliance with the requirements is: 6 months from the date this notice takes effect.
  - The appeal is proceeding on the ground set out in section 174(2)(a) of the Town and Country Planning Act 1990 (as amended). Since an appeal has been brought on ground (a), an application for planning permission is deemed to have been made under section 177(5) of the Act.
- 

### Decision

1. The appeal is dismissed, the enforcement notice is upheld and planning permission is refused on the application deemed to have been made under section 177(5) of the 1990 Act as amended.

### Appeal on Ground (a) and the Deemed Planning Application

2. An appeal under ground (a) is that planning permission should be granted for the matter alleged. The main issues are:
  - whether the development has resulted in increased recreational pressure on the Sandwich Bay Special Protection Area (SPA), and Sandwich Bay and Hacklinge Marshes Site of Special Scientific Interest (SSSI), and
  - the effect of the development on the character and appearance of the area.

### Reasons

#### *Effect on SPA and SSSI*

3. The site is within the zone of influence for the SPA and SSSI. The SPA is used by a large number of migratory birds particularly over-wintering Turnstones and European Golden Plover. New residential development has the potential to increase the recreational impacts on the European designated site resulting from the increase in population. Accordingly, the Council has produced a Strategic Access Management and Monitoring Plan to address any potential impacts from such forms of residential development. Mitigation measures include a warden service to provide onsite presence during the peak overwintering period and

education and awareness activities such as signage and interpretation throughout the year.

4. The appellant has indicated a willingness to make relevant contributions to mitigate the effects of the development and provided a signed and executed planning obligation in the form of a Unilateral Undertaking (UU) with the appeal to secure this. However, the wording of the UU does not achieve its intended aims as the trigger points for payment and notification of the commencement date<sup>1</sup> of the development have already passed. The Council have highlighted other deficiencies with the UU. However, it is sufficient for me here to conclude that the trigger points set out within the UU will not achieve its required objectives.
5. The UU is necessary to make the development acceptable in planning terms as, in the absence of it, there is no mechanism for securing the requisite funds to mitigate the development's effects on the SPA and SSSI.
6. The appellant was offered the opportunity to amend the UU under s106A of the Town and Country Planning Act 1990 however they declined to do so. I have also considered whether a condition could be imposed to require the subsequent agreement of a planning obligation to secure this mitigation. However, the Planning Practice Guidance (PPG) explains that no payment of money or other consideration can be positively required when granting planning permission and that such permission should not be granted subject to a positively worded condition that requires any party to enter into an obligation.
7. Under the terms of the PPG, there are certain exceptional circumstances that may allow for positively worded conditions to be imposed. However, the parties have not provided any indication that any attempts have been made in this regard to achieve this outcome such as providing an agreed Heads of Terms. In this context, I am unable to impose any such condition that would meet the tests set out in the PPG and National Planning Policy Framework (the Framework).
8. In the absence of an effective UU to achieve mitigation on the effects of the additional dwelling on the SPA and SSSI, the development conflicts with policy SP2 of the Thanet Local Plan (TLP), the Conservation of Species and Habitats Regulations 2017 and the Framework. This is insofar as there is no mitigation against the in-combination effects of the new development.

#### *Character and appearance*

9. The appeal site is set within the general environs of the town centre of Broadstairs. The High Street itself features a mix of buildings which generally date from the late 19<sup>th</sup> to early 20<sup>th</sup> century although earlier and more modern examples are present. Ground floors along the High Street are typically commercial units as shops, cafes and the like. Queen Street features some lower order town centre uses including the adjacent church before giving way to residential uses in the form of detached, semi-detached and a few terraced homes, often in an Edwardian era vernacular.
10. Number 43-45 itself is a three storey structure with the upper floors addressing the High Street and side facing Queen Street. It is constructed of yellow stock bricks with decorative orange brick banding and window arches together with feature window sills.

---

<sup>1</sup> As defined in the Unilateral Undertaking dated 1 February 2024

11. The extension the subject of the notice has been formed at the southern end of the building. It is set in line with the overall height of the original building and matches the eaves level. The materials used in the construction of the extension are a broad match for the those of the remainder of the building. Whilst the colour of the stock bricks does not match the remainder of the building, this is not a particularly stark difference. The orange brick banding does continue into the extension although it does lack window arches and decorative sills to the original building.
12. The extension lacks the attention to detail that was shown on the plans for the approved scheme<sup>2</sup>. Moreover, it is not set down at its upper level and lacks subordinacy to the original building. From the rear, within the small yard known as Church Close, this lack of detail is even more apparent as the orange brick banding is no longer present. Furthermore, the windows to the upper floor are set well below the eaves, giving this aspect awkward proportions.
13. However, despite this, I am unable to conclude that these changes are harmful to the character and appearance of the area. The building sits on the edge of a varied and dynamic town centre environment where the visual clutter of the main High Street is far more demanding on the eye than the omission of some relatively minor details to the upper floor. Buildings are typically arranged in proximity to each other; indeed, many are terraced such that the development does not appear cramped or incongruous within this close-knit urban environment.
14. The building remains of a lower height than the adjacent church as both the eaves and ridge height are set below the top of the tower. Moreover, the significantly finer detail and grander proportions of the church ensure that the building at 43-45 High Street does not eclipse it within the street scene or from other aspects.
15. Whilst the notice did express concern that the development does not enhance the character of the area, the site is not within a conservation area. It is a neutral addition to a dynamic urban environment.
16. Therefore, I conclude that the development complies with policy QD02 of the TLP, policy BSP9 of the Broadstairs and St Peters Neighbourhood Plan and Framework insofar as it has an acceptable impact on the character of the area.

## **Conclusion**

17. Due to the lack of a satisfactorily completed planning obligation to secure appropriate mitigation for the effects on the SSSI and SPA, I conclude that the appeal should not succeed. I shall uphold the enforcement notice and refuse to grant planning permission on the application deemed to have been made under section 177(5) of the 1990 Act (as amended).

*N Bowden*

INSPECTOR

---

<sup>2</sup> Council ref: F/TH/21/0611