
Appeal Decision

Site visit made on 21 January 2014

by Alan Woolnough BA(Hons) DMS MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 3 February 2014

Appeal Ref: APP/Z2260/A/13/2208019

1 St Benet's, Spencer Square, Ramsgate, Kent CT11 9LN

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr G Gerard against the decision of Thanet District Council.
 - The application ref no F/TH/13/0642, dated 5 August 2013, was refused by notice dated 9 October 2013.
 - The development proposed is described on the application form as: 'Change of use of dwelling to mixed use comprising tea rooms to basement, ground floor and first floor rooms to Royal Road frontage and retention of dwelling to remainder of building'.
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Formal Decision

1. The appeal is dismissed.

Procedural Matters

2. The address of the appeal property is given on the planning application form simply as St Benet's. However, it is apparent from the submissions on the appeal and from my visit that the correct address is 1 St Benet's.

Main Issues

3. The main issues in determining this appeal are:
 - the implications of the proposal for the vitality and viability of the core commercial centre of Ramsgate, having regard to the sequential locational strategy for main town centre uses prescribed by national policy;
 - whether the proposal would preserve or enhance the character or appearance of the Ramsgate Conservation Area, within which the property is located, and the settings of adjacent listed buildings; and
 - the effect of the proposal on the living conditions of neighbouring residents, with particular reference to noise.

Planning Policy

4. The development plan includes certain policies of the Thanet Local Plan 2006 (LP) that have been saved following a Direction made by the Secretary of State. Paragraph 215 of the National Planning Policy Framework (NPPF) advises that due weight should be given to relevant policies in existing plans according to their degree of consistency with the NPPF. I find no serious conflict between the development plan policies cited insofar as they are relevant to the appeal and, accordingly, give them full weight in reaching my decision.

Reasoning

5. The appeal property is a three storey dwelling with a basement, in an end of terrace location between the junctions of St Augustine's Road with Spencer Square and Paragon Street. It forms part of a relatively recent development that has replaced a listed building. However, the gates and gate piers of the original property have been retained and are Grade II listed. Planning permission is sought for the conversion of part of the property to tea rooms. The remainder would continue to be occupied as a single, albeit smaller, dwelling. The property's walled forecourt would be used as an open air tea garden.

Locational strategy

6. Paragraph 24 of the NPPF advises that a sequential approach should be applied to proposals for main town centre uses that are not in an existing centre and are not in accordance with an up-to-date Local Plan. Priority should be given to town centre locations, then edge of centre locations and only if suitable sites are not available should out of centre sites be considered. Paragraph 27 adds that where an application fails to satisfy the sequential test it should be refused.
7. The appeal property lies well outside the core commercial centre of Ramsgate as defined by the LP, occupying neither a town centre nor edge of centre location for the purposes of the development plan. Although the LP was adopted some eight years ago, nothing before me suggests that it is out of step with the NPPF such that it should not be accepted as up to date in this regard. Whilst I acknowledge that tea rooms may sometimes fulfil a tourism-related role, as a Class A3 use¹ they nonetheless constitute a 'main town centre use' for the purposes of the NPPF. However, their potential to attract tourists may sometimes justify a departure from the prescribed sequential approach, depending on the nature of the business and location.
8. The Appellant has not presented evidence to the effect that a sequential approach has been followed in selecting this particular site, so as to demonstrate that other sites that would be preferable in sequential terms are not available. Moreover, it is readily apparent from my visit that Ramsgate town centre contains a number of vacant commercial premises of a size commensurate with the business element of the appeal proposal. In the absence of cogent evidence to the contrary I have no reason to believe that these would be unsuitable.
9. I acknowledge that, in a seaside town, there will sometimes be seafront or other tourism-focussed areas outside defined town centres where intensified commercialisation arising from proposals likely to be attractive to tourists, such as the appeal scheme, may be acceptable in principle irrespective of proximity to the town centre. However, although the Appellant portrays the area around the appeal property as one of mixed use, where tourist attractions should be regarded as acceptable in principle, I did not find it to be so.
10. Whilst there are examples of tourist related uses and catering establishments in the vicinity, these are either separated from the appeal property by reason of steep topography, such as the vacant Westcliff Hall, or read as isolated

¹ Class A3 of the Schedule to the Town and Country Planning (Use Classes) Order 1987 as amended.

examples of commercial enterprise, such as the pavilion café in the centre of Spencer Square and the Churchill Tavern. The latter marks something of a change in character in the street scene as one heads eastward, rounding the corner into the cliff top promenade of Paragon where there are a few hotels and guest houses. However, 1 St Benet's is some distance from any significant concentration of commercial uses or tourist attractions and, despite fronting the main road, reads as an integral part of Spencer Square, which is quintessentially residential in character.

11. This being so, I do not consider the appeal property to occupy a 'mixed use' area or tourism hub where enterprises of the kind proposed should be regarded as acceptable in principle and find no sound reason to depart from the sequential approach prescribed by national policy in this case. I conclude that the proposal would compromise, without good reason, planning policy aimed at supporting the vitality and viability of the core commercial centre of Ramsgate and would thus undermine its effectiveness. I therefore find it to be contrary to the relevant provisions of the NPPF.

Character and appearance

12. I found this part of the conservation area to be distinguished architecturally by the attractive terraced houses of Spencer Square, located to the immediate north and east of the appeal property, which include several listed buildings dating from the Regency period. The open space of the square itself, containing landscaped gardens and tennis courts, is also a defining feature. Whilst 1 St Benet's itself is part of a relatively new building, it exhibits good quality traditional design very much in keeping with its sensitive setting.
13. Commercial uses are evident in close proximity, at the Churchill Tavern to the south and the pavilion café at the centre of Spencer Square. However, the former is separated from 1 St Benet's by a substantial block of residential development whilst the latter reads as an integral component of the park-like setting of the central square that complements, rather than contrasts with, the dwellings that surround it. Whilst a language school and the vacant Westcliff Hall are nearby, I found neither to impact significantly on the predominantly residential sense of place of the area around the appeal property. This domestic ambience is an important component of the character of this part of the conservation area.
14. It is apparent that customers seated in the proposed tea garden in the property's walled forecourt and associated paraphernalia would be clearly visible from the road through the gates to the premises. In all likelihood, comings and goings and other activity not commonly associated with domestic occupation would be readily evident to passers by. External alterations to the fabric of the building are not proposed and, this being so, I find that the effect of the development on the settings of adjacent listed buildings, including the gates and piers, could be limited. However, having said this, the envisaged business would by its very nature require reasonably prominent signage which would draw attention to the incongruity of the tea rooms.
15. Being located between the Churchill Tavern and the pavilion café, such a use would intensify markedly the existing subservient business presence in the area. It would thus consolidate an incongruous commercial enclave in residential surroundings, thereby eroding to an unacceptable degree the quiet,

domestic ambience of this part of the conservation area and introducing an unwanted vibrancy inappropriate to such a setting.

16. There is also a lack of cogent evidence to support the Appellant's suggestion that outlets associated with extraction and cooling systems required to serve the proposed basement preparation area could be restricted to relatively secluded positions beneath a balcony to the rear of the premises, adjacent to Paragon Street. Whilst I note the Appellant's willingness to restrict cooking equipment to microwave ovens, in the absence of expert technical advice to the contrary I cannot be reasonably certain that extraction or cooling installations in a more prominent location that could detract markedly from the appearance of both the host building and the local townscape would not be necessary to meet environmental health requirements.
17. I conclude that the proposal would fail to preserve or enhance the character or appearance of the Ramsgate Conservation Area. It is therefore contrary to saved LP Policy D1 and the relevant provisions of the NPPF.

Living conditions

18. St Augustine's Road, which the appeal property fronts, forms part of the B2054. This is one of the main vehicular thoroughfares serving Ramsgate and, in all likelihood, carries a significant volume of traffic during peak hours. I acknowledge that, at such times, background traffic noise is likely to be considerable and sufficient to effectively subsume any additional noise arising from the use of the proposed tea garden.
19. However, I noted during my mid-morning weekday visit that traffic on the road was sparse and that long periods elapsed during which no vehicles passed the appeal property. In the absence of technical evidence to the contrary I find that, during these quiet spells, which seem likely to occur at any time outside peak hours, including weekends, it is highly probable that activity in the tea garden would be readily audible to neighbouring residents, particularly in the warmer months when windows would be open and the forecourt facility would be more popular.
20. The Council has objected to the proposal on the grounds that it may lead to congregations of customers and anti-social behaviour during late hours. In this regard, I note that the Appellant would accept a condition that would preclude evening opening and am satisfied that disruptive gatherings of the kind envisaged by environmental health officers are less likely to be associated with a daytime enterprise. Nonetheless, drawing on my own judgment and experience, I consider that noise from the tea garden, even if this were to be limited to only three or four tables, could still prove intrusive during the day to those living in nearby properties, exacerbating any noise caused by activity already associated with existing commercial undertakings rather than being subsumed by it.
21. Nothing before me demonstrates satisfactorily that the orientation of the forecourt away from Spencer Square and the height of the walls around it would provide sufficient mitigation. Indeed, in the absence of cogent evidence to the contrary I cannot dismiss lightly the suggestion made by some that the enclosure created by the walls and building would accentuate the effect of the noise generated within it by reason of echo and reverberation. I therefore conclude that the proposal would be harmful to the living conditions of

neighbouring residents by reason of noise. Accordingly, I find it to be contrary to saved LP Policies H13 and D1 and the relevant provisions of the NPPF.

Other Matters

22. I have considered all the other matters raised. I note that saved LP Policies T1 and TC7 promote the extension and upgrading of the range of tourist facilities in the area and seek to widen or extend the tourist season. I also acknowledge that the business element of the appeal proposal would be likely to make a positive contribution, albeit limited, towards objectives concerned with the promotion of tourism, economic benefits, mixed use and the encouragement of multiple benefits from the use of land, as set out in the NPPF. However, there is nothing in national or local policy to suggest that considerations of this kind should be given priority over harm to the character and appearance of conservation areas or the living conditions of neighbouring residents.
23. The Appellant draws my attention to a café located next to a dwelling some 400 metres away, which has the benefit of planning permission. However, the distance from the appeal property is considerable. In any event, I know nothing of the circumstances of that particular case and am mindful that each proposal falls to be considered primarily on its own merits. I accept that the location is sustainable in terms of the proximity of public transport facilities and note the absence of an objection from the highway authority on grounds of road safety or parking provision.
24. I also acknowledge that the proposal meets some of the requirements set out in saved LP Policy D1 and that the public garden in Spencer Square would compensate to a degree for the absence of significant external amenity space to cater for the dwelling within the appeal scheme. Nonetheless, neither these nor any other matters are of such significance as to outweigh the considerations that have led to my conclusions on the main issues.

Conclusion

25. For the reasons given above I conclude that the appeal should be dismissed.

Alan Woolnough

INSPECTOR

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