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## Appeal Decision

Site visit made on 13 July 2015

**by C A Newmarch BA(Hons) MRICS MRTPI**

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

**Decision date: 17 August 2015**

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**Appeal Ref: APP/Z2260/W/15/3016558**

**Lord Nelson, 11 Nelson Place, Broadstairs, Kent CT10 1HQ**

- 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 Seaquest Properties Ltd against the decision of Thanet District Council.
  - The application Ref F/TH/14/1066, dated 20 November 2014, was refused by notice dated 20 January 2015.
  - The development proposed is the change of use from Public House to 5 no flats together with a 3-storey extension, following the demolition of the single storey front entrance and bar area. It is also proposed to demolish the single storey rear outbuilding to the west of the site.
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### Decision

1. The appeal is allowed and planning permission is granted for 'is the change of use from Public House to 5 no flats together with a 3-storey extension, following the demolition of the single storey front entrance and bar area. It is also proposed to demolish the single storey rear outbuilding to the west of the site' at Lord Nelson, 11 Nelson Place, Broadstairs, Kent CT10 1HQ in accordance with the terms of the application, Ref F/TH/14/1066, dated 20 November 2014, subject to the conditions in the appended schedule.

### Procedural matter

2. The Council's Decision Notice does not refer to the demolition of the single storey rear outbuilding to the south west of the site. In the absence of any submissions that its loss would fail to preserve or enhance the character or appearance of the Broadstairs Conservation Area, I have no reason to give this matter further consideration.

### Main Issues

3. The main issues are:
  - whether the proposal would preserve or enhance the character or appearance of the Broadstairs Conservation Area;
  - the effect on the living conditions of neighbouring residential occupiers at No 5 Tunis Row;
  - the effect on community facilities.

## Reasons

### Conservation Area

4. The Lord Nelson is within the Broadstairs Conservation Area. It is a large Conservation Area, which includes the town centre and the harbour. It is characterised by an eclectic mix of traditional commercial and residential buildings, often built close to the rear of the footway. The buildings include a wide range of styles, sizes and materials, with much of charm of the area arising from the juxtaposition of well designed yet differing built forms and historic features. In the immediate vicinity of the site, Nelson Place includes substantial terraced houses with small enclosed front gardens, and there is a range of generally smaller properties to the rear in Tunis Row and Devonshire Place.
5. The appeal premises comprise a substantial 4 storey element with a two storey element facing Tunis Row, and a later single storey side addition at the corner of Nelson Place and Devonshire Place. Due to its lower height, its projection forward of the general building line and its use of materials, the corner element and side elements differ from the prevailing character and appearance of the street scene along Nelson Place, and make a generally neutral contribution to the Conservation Area.
6. There appears to be some discrepancy regarding the outline of the existing building as shown for Section A-A on drawings 189/002A and 189/004. However, having careful regard to the detail of the existing and proposed plans, I take the sectional drawing to be an error.
7. The proposed scheme would not project forward of the existing front wall of the single storey element of the building on the Nelson Place frontage. The proposed three storey extension would include a ground floor bay along part of the existing building line of the entrance/bar area. The roof of the bay would provide a balcony for unit 4. The balcony would be a new feature on this building, which would add interest to elevation. As there are balconies on the front elevation of Nos 21, 23 and 25 Nelson Place, which I saw at the time of my visit, it would not be a novel addition to the street scene.
8. The front bay would add to the overall bulk of the building, but would have a reduced forward projection at first floor level and above. Moreover, as the part of the three storey extension which would be closest to Devonshire Place would step back to reflect the relationship between the original 4 storey element and the adjacent terrace at Nos 15-31 Nelson Place, it would not be significantly harmful to the rhythm and scale of development in this part of Nelson Place.
9. The three storey side extension would result in the loss of the existing two storey element with hipped roof, which faces Tunis Row. The hipped roof is an attractive traditional feature, although the slates shown in the submitted photographs had been removed by the time of my visit. The roof adds to the irregular, somewhat quirky mix of features in the area, but is not characteristic or essential to the street scene.
10. The appearance of the bin enclosures at the front of the building could seriously detract from the street scene. However, given that front gardens are generally enclosed along Nelson Place and that details could be controlled by a

planning condition, I do not consider that the provision of bin stores would be so harmful as to be determinative.

11. For the reasons given, the proposed development would have a neutral effect on the character and appearance of the Broadstairs Conservation Area, and thus its character and appearance would be preserved. There would be less than substantial harm to the heritage asset of the Broadstairs Conservation Area. In this instance, the less than substantial harm would be clearly outweighed by the benefit of bringing a disused building back into use. It would not, therefore, conflict with the relevant criteria of policy D1 of the Thanet Local Plan (LP), 2006, or the National Planning Policy Framework (NPPF), but would accord with paragraphs 50 and 134 of the NPPF.

#### Living conditions

12. The rear elevation would introduce a window at second floor level facing towards No 5 Tunis Row. There is a substantial hedge along the boundary at No 5. While its height would not be sufficient to completely screen all views from the proposed window, its proximity would reduce and filter views of the garden. There can be no certainty about how the living accommodation would be used, but the second floor room is shown as a bedroom on the submitted plans. As the room would be well removed from the kitchen and living areas which would be on the lower ground floor, it would be unlikely to be used throughout the day, and would give rise only to a degree of casual overlooking which is commonplace within a tight urban environment such as Tunis Row.
13. I am not, therefore, persuaded that the limited loss of privacy which would occur would materially detract from a good standard of amenity for all occupiers of land and buildings, or be seriously harmful to the living conditions of No 5 Tunis Row. As such, the development would not conflict with the relevant criteria of LP policy D1 or paragraph 17 of the NPPF.
14. The appellant would accept a condition requiring the window to be fitted with obscure glazing, but I do not consider such a condition to be necessary, or appropriate in a habitable room.

#### Community Facilities

15. The Lord Nelson is no longer trading as a Public House. The building had been stripped of all internal finishes at the time of my visit, although the demolition works to the single storey front entrance and bar area had not been undertaken.
16. The submitted report on the viability of the Lord Nelson demonstrates that the limited barrellage, turnover and consequently the viability of the Lord Nelson declined significantly from 2012 onwards, such that it was no longer a realistic business proposition by 2014.
17. There is no evidence that the premises were marketed as a going concern or for any community use. However, in the unusual circumstances of this busy seaside town, there are several other Public Houses which cater for a traditional mature clientele, other drinking establishments with extensive dining facilities and new micropubs offering real ales and food, all within a short walking distance of the site. Consequently, although community facilities would not be included within the proposed use of the site, the Council has not demonstrated that the development would result in an unacceptable loss of

community facilities or be materially harmful to the day to day needs of the community. As such, it would not conflict with LP policy CF1 or paragraph 70 of the NPPF.

### **Other matters**

18. The appellant refers to the need for additional housing in the Thanet area. However, I have decided to allow the appeal for other reasons, so this is not a determinative matter.

### **Conditions**

19. I have considered the conditions suggested by the Council in the event of the appeal being allowed. In addition to the usual time limiting condition, pre-commencement conditions are necessary to control the external materials, the rainwater goods, the door and window reveals, the joinery and to control the landscaping details in the interests of the character and appearance of the area and to prevent wasted expense.
20. As there is no information regarding the history or possible archaeology of the site, it has not been shown that a condition requiring access to be provided for an archaeologist is necessary.
21. Conditions requiring the provision of secure cycle storage to before the first occupation of the dwellings is necessary in the interests of encouraging cycling.
22. A condition requiring the removal of a redundant highway crossing in Nelson Place would not be reasonable or enforceable as it would involve highway land outside the appellant's control. The suggested condition regarding a visibility strip in Nelson Place is imprecise, but the landscaping condition will enable the Council to control the boundaries and layout of the garden area along the Nelson Place frontage.
23. Otherwise as set out in this decision and conditions, for the avoidance of doubt and in the interests of proper planning, a condition requiring the development to be carried out in accordance with the approved plans is necessary.

### **Conclusions**

24. I have considered all other matters raised, but for the reasons given, I conclude that the appeal should be allowed.

*CA Newmarch*

INSPECTOR

### **Schedule of conditions:**

- 1) The development hereby permitted shall begin not later than three years from the date of this decision.
- 2) No development shall take place until samples of the materials to be used in the construction of the external surfaces of the building hereby permitted have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details and retained s such thereafter.

- 3) Notwithstanding condition 7 no development shall take place until details of the reveals to windows and doors, the rainwater goods, joinery details including glazing bars, frames and mouldings have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details before the occupation of the development hereby permitted.
- 4) No development shall take place until full details of both hard and soft landscape works have been submitted to and approved in writing by the local planning authority and these works shall be carried out as approved. These details shall include means of enclosure, hard surfacing materials, refuse and secure cycle storage.
- 5) Soft landscape works shall include planting plans, and schedules of plants, noting species, plant sizes and proposed numbers/densities where appropriate.
- 6) All hard and soft landscape works shall be carried out in accordance with the approved details. The works shall be carried out prior to the occupation of any part of the development or in accordance with the programme agreed with the local planning authority.
- 7) The development hereby permitted shall be carried out in accordance with the following approved plans: 189/001, 189/002A, 189/003A, 189/004, 189/010.