

R04

F/TH/22/1577

PROPOSAL: Variation of condition 2 of planning permission F/TH/20/0857 for the "Erection of 3No three storey dwellings with associated landscaping, parking, bin and bike stores" to allow alterations from timber to UPVC windows

LOCATION: Land Adjacent 12 To 14 Fort Road MARGATE Kent CT9 1HF

WARD: Margate Central

AGENT: No agent

APPLICANT: Mr Peter Miles

RECOMMENDATION: Refuse Permission

For the following reason:

1 The proposed development, by virtue of the materials proposed, would significantly detract from the character and appearance of the development, and would fail to respect or enhance the special character and appearance of the Margate Conservation Area. As a result the development would be contrary to the aims of policies SP36, HE02 and QD02 of the Thanet Local Plan and paragraph 197 of the National Planning Policy Framework, whilst diminishing the quality of the approved development contrary to paragraph 135 of the Framework.

SITE, LOCATION AND DESCRIPTION

The application site is roughly rectangular in shape and lies at the junction of Fort Road with Cobbs Place, Margate. It lies within the Margate Conservation Area and close to several listed buildings and non-designated heritage assets. To its south is Margate Old Town with its mix of commercial and retail uses to ground floors and residential above, to its east and west is residential development and to its north is are new houses which are currently under construction and beyond that the Fort Road Hotel.

RELEVANT PLANNING HISTORY

F/TH/20/0857 - Erection of 3No three storey dwellings with associated landscaping, parking, bin and bike stores. Approved 21st May 2021.

PROPOSED DEVELOPMENT

Planning permission was granted for the erection of 3No three storey dwellings with associated landscaping, parking, bin and bike stores on the 21st May 2021 (F/TH/20/0857 refers). Condition 2 of planning application (F/TH/20/0857) relates to the list of drawings

approved for the application which a development must be built in accordance with. This included drawing 337-003 Rev D (elevations and site plan) which, among other materials for the proposed development, showed timber windows. Condition 3 of that application also required samples of materials to be used on the external surfaces of the development to be submitted and approved by the Council as the Local Planning Authority. Condition 4 of that application then required joinery details of the windows and doors for the development to be submitted and agreed prior to their installation. Details for conditions 3 and 4 were submitted as requested and approved in December 2021 and April 2022 respectively.

This application seeks to vary condition 2 of the permission to allow the windows for the development to be UPVC instead of timber. A Section 73 application requires the consideration of the proposed change to the condition in question only.

DEVELOPMENT PLAN POLICIES

SP01 - Spatial Strategy - Housing
SP10 - Margate
SP14 - General Housing Policy
SP29 - Strategic Access Management and Monitoring Plan (SAMM)
SP35 - Quality Development
SP36 - Conservation and enhancement of Thanet's Historic Environment
SP37 - Climate Change
H01 - Housing Development
GI04 - Amenity Green Space and Equipped Play Areas
QD01 - Sustainable Development
QD02 - General Design Principles
QD03 - Living Conditions
QD04 - Technical Standards
HE02 - Development in Conservation Areas
HE03 - Heritage Assets
TP02 - Walking
TP03 - Cycling
TP06- Car Parking

NOTIFICATIONS

Letters were sent to adjoining occupiers, a site notice posted close to the site and the application publicised in a local newspaper.

One letter objecting to the application has been received. Its comments are summarised below.

The bin and bike areas will encroach on mine and my neighbours' privacy;
Noise nuisance; and
Loss of light

CONSULTATIONS

TDC Conservation Officer: Final comment - This application is for a variation of condition as part of the development underway on Fort Road which is located within Margate Conservation Area. The variation is directed towards the materiality of the windows of the original scheme, altering them from timber to UPVC.

Thanet's Local Plan, policy HE02, states within Section 8 which states 'Appropriate materials and detailing are proposed and the development would not result in the loss of features that contribute to the character or appearance of the conservation area. New development which would detract from the immediate or wider landscape setting of any part of a conservation area will not be permitted.'

NPPF Section 16, Paragraph 197 states, In determining applications, local planning authorities should take account of (a) the desirability of sustaining and enhancing the significance of heritage assets and putting them to viable uses consistent with their conservation as well as (c) the desirability of new development making a positive contribution to local character and distinctiveness.

Also within the NPPF Section 16, Paragraph 194, it states in determining applications, local planning authorities should require an applicant to describe the significance of any heritage assets affected, including any contribution made by their setting. The level of detail should be proportionate to the assets' importance and no more than is sufficient to understand the potential impact of the proposal on their significance. As a minimum the relevant historic environment record should have been consulted and the heritage assets assessed using appropriate expertise where necessary. Where a site on which development is proposed includes, or has the potential to include, heritage assets with archaeological interest, local planning authorities should require developers to submit an appropriate desk-based assessment and, where necessary, a field evaluation.

Guidance under the National Design Guide Section C2, Paragraph 45 highlights that when determining how a site may be developed, it is important to understand the history of how the place has evolved. The local sense of place and identity are shaped by local history, culture and heritage, and how these have influenced the built environment and wider landscape and paragraph 47 which states Well-designed places and buildings are influenced positively by the local vernacular, including historical building typologies such as the terrace, town house, mews, villa or mansion block, the treatment of façades, characteristic materials and details.

Having commented on the original application, reference F/TH/20/0857, conservation and heritage values along with traditional design of the buildings proposed were a key aspect of the development of the scheme to make sure it appeared cohesive and well integrated with the existing character and appearance of the surrounding conservation area. With this in mind, per the documents approved, timber sash windows were approved across the material design palette as part of the scheme.

Further information has since been provided on the style of the proposed composite windows of which again I can appreciate there may be examples of other UPVC units in the immediate vicinity. However I would make the argument again that the properties being constructed are of traditional form, design and proportions and as such suit that of a

traditional material pallet. Therefore installing UPVC composition windows to this design would appear false and contrasting against the proposed architectural scheme. The premise of the scheme was that it would appear acceptable as long as traditional values were followed, as is evident in their design, to go against this at this stage would be detrimental to their collective appearance.

The visual benefit of the use of timber windows in the conservation environment is that they are able to be made with appropriately detailed muntins or sash bars. Often when recreated using UPVC, however much care is taken they very rarely are as thin and lightweight in their appearance when compared to timber.

The site in question is in a prime location within Margate Conservation Area and as such is visible from multiple roads, glimpse and long views. The implications from this development do not just disrupt the immediate setting and appearance of the surrounding environment but also the much wider context and as such should be carefully considered. National Design Guide Section C2, Paragraph 45 highlights the need for progressive and responsive design that responds appropriately to the historic development and context of the surrounding environment of areas under development, I do not believe that this variation complies with this legislation by the changes proposed.

As stated in my previous comment, to vary this design choice now would appear poorly in the context of the surrounding conservation area appearing as an contemporary material amongst a historic area as well as being cited upon a traditionally designed property. This would be contrary to the aforementioned legislation.

I can acknowledge that there is already the presence of some UPVC throughout conservation areas in Thanet, however this is not cause to further dilute the integrity of the historical significance of the area. Immediately cited UPVC may have been installed unlawfully or under different circumstances and planning regulations depending on when or if it was approved. There are also examples of timber in the surrounding environment, as such I would question why these have not been referenced as positive local ques (sic).

Due to the aforementioned reasoning I object to the proposed application and would suggest that Thanet's Local Plan, policy HE02, Section 8 which states that 'Appropriate materials and detailing are proposed and the development would not result in the loss of features that contribute to the character or appearance of the conservation area.' is considered.

Initial comment - This application is for a variation of condition as part of the development underway on Fort Road which is located within Margate Conservation Area. The variation is directed towards the materiality of the windows of the original scheme, altering them from timber to UPVC.

Thanet's Local Plan, policy HE02, states within Section 8 which states 'Appropriate materials and detailing are proposed and the development would not result in the loss of features that contribute to the character or appearance of the conservation area. New development which would detract from the immediate or wider landscape setting of any part of a conservation area will not be permitted.'

NPPF Section 16, Paragraph 197 states, In determining applications, local planning authorities should take account of (a) the desirability of sustaining and enhancing the significance of heritage assets and putting them to viable uses consistent with their conservation as well as (c) the desirability of new development making a positive contribution to local character and distinctiveness.

Also within the NPPF Section 16, Paragraph 194, it states in determining applications, local planning authorities should require an applicant to describe the significance of any heritage assets affected, including any contribution made by their setting. The level of detail should be proportionate to the assets' importance and no more than is sufficient to understand the potential impact of the proposal on their significance. As a minimum the relevant historic environment record should have been consulted and the heritage assets assessed using appropriate expertise where necessary. Where a site on which development is proposed includes, or has the potential to include, heritage assets with archaeological interest, local planning authorities should require developers to submit an appropriate desk-based assessment and, where necessary, a field evaluation.

Having commented on the original application, reference F/TH/20/0857, conservation and heritage values along with traditional design of the buildings proposed were a key aspect of the development of the scheme to make sure it appeared cohesive and well integrated with the existing character and appearance of the surrounding conservation area. With this in mind, per the documents approved, timber sash windows were approved across the material design palette as part of the scheme.

To vary this design choice now would appear poorly in the context of the surrounding conservation area appearing as an contemporary material amongst a historic area as well as being cited upon a traditionally designed property. This would be contrary to the aforementioned legislation. I can acknowledge that there is already the presence of some UPVC throughout conservation areas in Thanet, however this is not cause to further dilute the integrity of the historical significance of the area. Immediately cited UPVC may have been installed unlawfully or under different circumstances and planning regulations depending on when or if it was approved. Reviewing the information provided as part of this application no detail has been included regarding the style of the windows proposed, an example of what it may look like, their form or what possible implications this may or may not have on the setting and appearance of the surrounding environment. Such justification would need to be included for this application to be fully reviewed as per planning legislation NPPF Section 16, Paragraph 194.

Due to the aforementioned reasoning I object to the proposed application and would suggest that Thanet's Local Plan, policy HE02, Section 8 which states that 'Appropriate materials and detailing are proposed and the development would not result in the loss of features that contribute to the character or appearance of the conservation area.' is considered.

COMMENTS

The application has been called to the planning committee at the request of Councillor Leys for members to consider the impact on the character and appearance of the proposed dwellings and their conservation area setting.

Principle

The principle of the change of use to residential on the site was agreed under the original consent F/TH/20/0857, which is still extant, with work having commenced on site. As such, there is no in principle objection to this residential development of the site.

Character and Appearance

Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 which requires decision makers to pay special attention to the desirability of preserving or enhancing the character or appearance of conservation areas. The NPPF states that when considering the impact of a proposed development on the significance of a designated heritage asset; great weight should be given to the asset's conservation. The NPPF goes on to state that where a development proposal would lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal, including where appropriate, securing its optimum viable use.

Policies SP36 and HE02 of the Thanet Local Plan are also relevant to this application. Policy SP36 of the Council's Local Plan is a strategic policy which states that the council will support, value and have regard to the historic significance of Heritage Assets. HE02 states that within conservation areas, development proposals which preserve or enhance the character or appearance of the area will be permitted and states that new development which would detract from the immediate or wider landscape setting of any part of the conservation area will not be permitted. It goes on to state that proposals for extensions within conservation areas should respect the character, scale and plan form of the original building and be subservient to them and include appropriate materials and detailing and not result in the loss of features that contribute to the character and appearance of the conservation area. Whilst it is noted that the reference to appropriate materials and detailing are in the part of the policy relating to extensions within conservation areas, it is important to recognise that appropriate materials and detailing are fundamentally important for all development within conservation areas whether new stand alone development or extensions to existing buildings.

Paragraph 130 of the National Planning Policy Framework (NPPF) states decisions should ensure that developments will function well and add to the overall quality of the area, are visually attractive as a result of good architecture, layout and appropriate and effective landscaping, sympathetic to local character and history, establish or maintain a strong sense of place, and optimise the potential of the site to accommodate and sustain an appropriate amount and mix of development and create places that are safe, inclusive and accessible. Paragraph 130 of the NPPF also states that permission should be refused for development of poor design that fails to take the opportunities available for improving the character and quality of an area and the way it functions.

Paragraph 135 of the NPPF states that "Local Planning Authorities should seek to ensure that the quality of approved development is not materially diminished between permission and completion, as a result of changes being made to the permitted scheme (for example through changes to approved details such as the materials used)."

Policy QD02 of the Thanet Local Plan outlines that the primary aim of new development is to promote or reinforce local character and provide high quality and inclusive design that is sustainable in all other respects. Proposals should therefore relate to surrounding development, form and layout, be well designed, pay particular attention to context and identity of location, scale, massing, rhythm, density, layout and materials, and be compatible with neighbouring buildings and spaces.

As stated above, this application seeks to replace timber windows with UPVC, with no other changes to the scale/appearance of development.

The application site is a prominent corner site within Margate Conservation Area and is visible from multiple roads with glimpses and short and long views of the site achieved from within and adjoining the conservation area. The dwellings approved are traditional in style, design and proportions suited to a traditional palette of materials including timber windows and it is noted that applicant proposed timber windows in the submission for the original planning consent F/TH/20/0857. The elevation plans of the three dwellings show timber vertical sliding sash windows with vertical glazing bars in the ground and first floor windows, with side hung casement windows in the dormer windows fronting Cobbs Place. The rear elevation includes similar proportioned windows at first floor level, with glimpsed views available from Alkali Row. Joinery details as required under condition 4 of the permission have been submitted and approved, which match the form of opening and profile of window approved on the elevations.

The applicant has raised 5 main areas to support his application to install UPVc windows instead of timber. These are that there is no Article 4 Direction on the conservation area in relation to windows, that Inspectors and other Local Planning Authorities (LPAs) have accepted that upvc is an acceptable material in conservation areas, that there are other buildings in the conservation area that have metal or UPVC windows in the surrounding conservation area, that the UPVC windows proposed would not be materially different from timber windows and that there is a permitted development fallback in that householders can replace windows without the need for planning permission. These will be considered in turn below.

An Article 4 Direction provides additional planning control in a particular location. It can be used to remove Permitted Development rights over some alterations, such as new porches, replacement windows and doors, replacement roof coverings and the exterior painting of a building. The applicant is correct in that there is no Article 4 direction in relation to windows within the Margate Conservation Area. This does not, however, mean that the Council does not place great importance on the style and materials of windows within the Conservation Area, it is considered appropriate that a case by case assessment is made.

As set out above, planning guidance is that each planning application is assessed on its own merits and there may well be instances where an Inspector or other Local Planning Authority have found non-traditional materials or materials other than timber to be acceptable within a conservation area. The cases submitted are not, however, identical or felt to be comparable to the application currently before the council.

The applicant has also provided details including photos of other buildings within the conservation area which do not have traditional materials. This is a matter often raised by applicants and has been considered at both application stage and appeal in various cases. It is considered that the impact of upvc windows varies depending on the type of property and the specific detailing. Moreover, and in any event, it is considered that applications should be considered on their own merits with regard to the specific context of the application in the street scene. It is also noted that there are many examples of timber windows in the conservation area that could be looked at.

The applicant has also stated that the detailing of the windows proposed to install would not appear materially different from timber. The Conservation Officer raises concerns about the use of UPVC in conservation areas stating the “visual benefit of the use of timber windows in the conservation environment is that they are able to be made with appropriately detailed muntins or sash bars. Often when recreated using UPVC, however much care is taken they very rarely are as thin and lightweight in their appearance when compared to timber.” Upvc is not a traditional material and is generally more flat, uniform and glossier in finish than traditional timber windows, giving the windows a modern and less refined appearance. Whilst modern UPVC products often seek to replicate the grain of timber, the inherent texture of timber windows and detailing often results in a difference in appearance when viewed in close proximity, such as from an adjoining footway. The applicant has indicated that he is proposing to utilise REHAU Heritage Vertical Sliders, and provided a website link to the supplier which includes a specification showing a vertically sliding box sash window, without providing precise measurements of the proposed windows in each opening. Therefore whilst the proposed windows would be required to match the form of openings (vertical sash or casement) and general design appearance (glazing bars and frame sizes), significant concerns are raised about the detailed appearance of UPVC windows when compared with the timber windows approved under condition 4 of F/TH/20/0857.

In this instance, as stated above the dwellings are traditional in form, design and proportions and the use of UPVC would be at odds with this, introducing contemporary materials into a traditionally designed development.

The fallback position mentioned would come under householder permitted development under Part 1 Class A of the general Permitted Development Order. In this instance to avoid the need for planning permission, the proposed windows would need to be similar in appearance to the existing. As stated above, it is not considered that the windows proposed by the applicant would necessarily be similar to the windows approved under F/TH/20/0857 in appearance. The utilisation of permitted development rights would be a matter once the development has been completed, and no permitted development rights apply when a dwelling is under construction. It is also reasonable to consider that once timber windows are installed, it would not be necessary nor anticipated that they would be replaced immediately as this would clearly not be cost effective. Therefore limited weight is given to the argument regarding a permitted fallback.

It is considered that the windows now proposed do not fit with the traditional materials, form, scale and design of the proposed dwellings, would fail to preserve the significance of the historic area in which they would be situated, and that they lack the refinement of the timber windows secured under the previous planning consent. Given the above, it is considered

that the proposed change of materials for the windows of the dwellings from timber to UPVC would harm and fail to preserve the character and appearance of the conservation area. It is considered that paragraph 135 of the NPPF is directly applicable, as the proposed change in materials would materially diminish the quality of the approved development. The application is therefore considered to be contrary to the provisions of Policies SP36, HE02 and QD02 and paragraph 135 of the NPPF.

Living Conditions

Policy QD03 (Living Conditions) states that all new development should: 1) Be compatible with neighbouring buildings and spaces and not lead to the unacceptable living conditions through overlooking, noise or vibration, light pollution, overshadowing, loss of natural light or sense of enclosure. 2) Be of appropriate size and layout with sufficient usable space to facilitate comfortable living conditions and meet the standards set out in QD04. 3) Residential development should include the provision of private or shared external amenity space/play space, where possible. 4) Provide for clothes drying facilities and waste disposal or bin storage, with a collection point for storage containers no further than 15 metres from where the collection vehicle will pass.

As stated above, this application seeks to replace timber windows with UPVC, with no other changes to the scale of development, therefore there is no additional impact on any neighbouring properties from the approved application.

Whilst the applicant has not sought to argue that the proposed amendments would improve the living conditions of the future occupiers of the dwellings, it is considered appropriate to consider this fact.

Whilst there is some perception that there may be some energy efficiency from the installation of UPVC windows as opposed to timber, it is considered that well finished and maintained timber windows provide a good standard of insulation and noise reduction for occupiers of dwellings. Therefore the change would have a neutral impact on future occupiers.

Highways

The proposed amendments will not have an impact on the siting or location of the dwellings or the fact that they are not served by vehicular parking as set out in planning consent F/TH/20/0857. As such, there would be no adverse impact on highway safety or parking as a result of the proposed changes of window material.

SAMM Contribution

Natural England has previously advised that the level of population increase predicted in Thanet should be considered likely to have a significant effect on the interest features for which the Thanet Coast and Sandwich Bay Special Protection Area (SPA) and RAMSAR have been identified. The previous application including an obligation to pay towards the Strategic Access Management and Monitoring Plan (SAMM) in accordance with Policy SP29 of the Local Plan.

The proposed amendments do not vary the amount of SAMM contribution required for the development under F/TH/20/0857. It appears, however, that this contribution has not yet been received. If this application to vary condition 2 was approved, either the payment of the contribution would need to have been paid prior to issuing the decision or a new obligation entered into for payment of the SAMMs, otherwise the proposal would contribute towards a significant effect on the designated sites, contrary to Policy SP29 and the Habitat Regulations. Given that the application is being recommended for refusal, this matter has not sought to resolve this issue at this stage, with the previous contribution still liable if the development under F/TH/20/0857 was to be built out.

Contaminated Land

The proposed amendment relates only to the physical buildings. Given this, they would not have an impact on contaminated land.

Drainage and Flooding

The proposed changes relate only to the physical buildings. There would be no impact on drainage or flooding from the proposed amendments.

Archaeology

The proposed amendments relate only to the physical buildings. Given this, they would not have an impact on archaeology.

Other Matters

It is noted from the application form that the application was intended to include amended windows as well as doors, but officers have only considered amendments to windows as that is what was included in the proposed rewording of the condition as set out by the applicant in the application form.

The comments from the local resident in relation to loss of privacy from the bike and bin store, noise nuisance and loss of light are noted, but do not relate to the amendments that is the subject of this application and are issues that were considered when the previous application F/TH/20/0857 for the dwellings was granted.

Conclusion

Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires special attention to be paid to the desirability of preserving or enhancing the character or appearance of a conservation area. The harm identified falls within the category of "less than substantial harm" to the significance of the heritage asset. Paragraph 202 of the National Planning Policy Framework (the Framework) states that where a development proposal will lead to less than substantial harm of a designated heritage asset, this harm should be weighed against the public benefits of the proposal. The public benefit of better

energy efficiency for the building is not sufficient to overcome the harm identified, a consideration the courts have determined is a matter of considerable importance and weight.

It is considered that the development fails to preserve or enhance the character or appearance of the Conservation Area by the use of a contemporary material at odds with the traditional materials, scale, form and design of the proposed dwellings and lacking the refinement of the timber windows secured under the previous planning consent

Consequently, it conflicts with the aims of Policies SP36, HE02 and QD02 of the Thanet District Council Local Plan (2020) which requires that development respects and enhance the character of the area particularly in the use of materials appropriate to the locality. The development also conflicts with the aims of the Framework particularly paragraph 135 which seeks to guard against the quality of developments being materially diminished between permission and completion through changes to the permitted scheme.

Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires development to be in accordance with the development plan unless there are material considerations which indicate otherwise. The benefit described does not outweigh the conflict with the development plan.

Case Officer

Annabel Hemmings

TITLE:

F/TH/22/1577

Project

Land Adjacent 12 To 14 Fort Road MARGATE Kent CT9 1HF

