



The Planning Inspectorate

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## Appeal Decision

Site visit made on 4 September 2024

by **A Wright BSc (Hons) MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 23<sup>rd</sup> September 2024

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**Appeal Ref: APP/V2255/W/23/3334751**

**73-75 High Street, Queenborough, Kent ME11 5AG**

- 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 Mrs Susan Stock against the decision of Swale Borough Council.
- The application Ref is 23/502901/FULL.
- The development proposed was originally described as “change of use from commercial to 2no. residential apartments, including raising of roof, installation of new bi fold doors, erection of balconies to the creekside elevation, and new roof terrace with enclosed staircase”.

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### Decision

1. The appeal is dismissed.

### Preliminary Matter

2. The proposed site location and block plan, and floor plans and elevations were amended during the application process showing the removal of a balcony, an altered roof terrace configuration and additional information on sight lines. I have determined the appeal based on the amended plans.

### Main Issue

3. The main issue in this appeal is the effect of the proposal on the living conditions of the occupiers of 69 and 77 High Street, with particular regard to outlook, sunlight and privacy.

### Reasons

4. The appeal site comprises a commercial building in a predominantly residential area. It is a single storey property with a basement which projects beyond the rear of the neighbouring houses at 69 and 77 High Street (Nos 69 and 77). The three-storey structure at No 77 has a ground floor opening onto a small, raised patio and a lower-level back garden immediately abutting the site. No 69 is a two-storey dwelling with rear outbuildings alongside an alley which separates it from the appeal site.
5. The proposed development would replace the existing part monopitch, part flat roof with a taller flat roof to create a first floor. It would include a rear

balcony, roof terrace and a central staircase providing access to the upper floor apartment and roof.

6. The proposal would not increase the building footprint, would be lower than the neighbouring buildings and has been designed to minimise flood risk whilst providing an adequate standard of accommodation. However, due to the significantly increased height of the rear part of the structure and its proximity to the ground floor rear room and patio at No 77, the extended building would have an overbearing effect, dominating the outlook from the adjoining house and patio. Given the south facing orientation of No 77's rear rooms and garden and considering the existing overshadowing from the building on the site, the proposed scheme would not cause unacceptable loss of sunlight to the occupants of that house.
7. I acknowledge that there have been some changes to the proposed external amenity spaces since the Council's refusal of a previous application for the site (ref 22/505921/FULL) and during the application process for the current proposal. There is no dispute that the privacy screens on the proposed balcony would prevent unacceptable overlooking of the neighbouring properties from that space.
8. Nevertheless, the proposed roof terrace would occupy a large amount of the roofspace above the extended building. Whilst it would align with the rear of No 77 and face the harbour, the scale and elevated position of the roof terrace mean that future occupiers would be able to look directly down into the rear gardens at Nos 69 and 77 when using their outdoor space. This would result in an unacceptable loss of privacy to the residents of these neighbouring properties, significantly harming their living conditions. There are views into the garden at No 77 from the adjacent property at 79 High Street and the rear patio is also visible from the street. However, the position of the proposed roof terrace high above the neighbouring gardens would result in greater overlooking than at present.
9. The existing rear outbuildings at No 69 already substantially enclose and affect the amount of sunlight to the rear garden and ground floor rooms of this neighbouring house. The first-floor window nearest the appeal site is obscure glazed. Although the proposed scheme would result in a sizeable extended building, given the position of outdoor structures and rear window arrangements at No 69, the proposal would not result in a harmful loss of outlook or unacceptable overshadowing to the occupiers of this property.
10. Whilst the proposed development would not harm the sunlight to Nos 69 and 77, I conclude that it would significantly harm the occupants' privacy. There would also be an unacceptable loss of outlook from No 77. This would be contrary to Policies DM14 and DM16 of the Bearing Fruits 2031 The Swale Borough Local Plan 2017 (Local Plan) where they require developments to protect residential amenity.

#### **Other Matters**

11. The Council did not find harm or development plan conflict in relation to several other matters, including flood risk, noise, parking, space standards, living conditions for future occupants and archaeology. However, even if I

were to agree with the Council on these points, the absence of harm would be a neutral matter which would not carry weight in favour of the proposal.

12. The site adjoins a grade II listed building at 77 High Street (No 77). Its special interest and significance derive in part from it being an 18<sup>th</sup> century three storey and basement brick building with a parapet and concealed slate roof, a panelled doorway with fanlight, an octagon bay window and some sash windows. As the extended building would be attached to the rendered side of No 77 and given that its frontage would remain much smaller than that of the adjoining building, the proposal would preserve the setting of the listed building, and its significance would not be harmed. I note that the Council raised no objection in this regard either. Nevertheless, this lack of harm weighs neutrally and does not amount to a consideration in support of the appeal or alter my overall conclusion on the main issue.
13. The site lies within the Queenborough Conservation Area (CA) where there is a requirement for special attention to be paid to the desirability of preserving or enhancing the character or appearance of the CA. Having regard to the Queenborough CA Character Appraisal and Management Strategy (CAMS), the significance of the CA derives in part from it being a late example of a medieval port town and Royal Borough, with planned High Street, town quay and Parish Church and its collection of Georgian buildings. The host building is identified in the CAMS as being a negative feature in the CA as it is a modern building which does not respond sympathetically to the prevailing scale, roofscape, rhythm of frontages and use of materials of buildings along the High Street.
14. The proposal would modernise a building of limited architectural quality no longer required for commercial use and is supported by Queenborough Town Council. I note that the Council does not object to the proposed design and considers that the scheme has the potential to enhance the character and appearance of the CA. However, I am concerned that the external roof terrace enclosures and stairwell structure would create roof clutter visible from the High Street which could be detrimental to the character and appearance of the CA. As I am dismissing the appeal for other reasons, I have not considered this matter further.
15. The proposed development would be likely to have a significant effect, either alone or in combination, on The Swale Special Protection Area and Ramsar site due to its location within 6km of the protected sites. However, notwithstanding the SAMMS<sup>1</sup> Mitigation Contribution Agreement and fee payment, given my conclusion below there is no need to consider the implications of the proposal on the protected sites because the scheme is unacceptable for other reasons.

#### **Planning Balance and Conclusion**

16. The Council cannot currently demonstrate a five year housing land supply required by the Framework. According to an appeal decision for Ufton Court Farm in July 2024<sup>2</sup>, the Council's current position is a 4.1 year housing land

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<sup>1</sup> Thames, Medway & Swale Estuaries Strategic Access Management and Monitoring Strategy July 2014

<sup>2</sup> Appeal Ref: APP/V2255/W/23/3333811

supply. This represents a significant shortfall and therefore paragraph 11(d) of the Framework is engaged.

17. Paragraph 11(d)(ii) of the Framework confirms that in such circumstances, permission should be granted unless the adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole.
18. The Framework seeks to boost housing supply and highlights the important contribution small and medium sized sites can make, whilst supporting development which makes efficient use of land. The proposal would make a modest contribution of two additional dwellings to the supply of housing, making better use of previously developed land within Queenborough on a site with access to services and public transport. It would contribute towards Swale Borough's housing supply, making a modest difference to addressing the shortfall, and therefore I attribute modest weight to this benefit.
19. There would also be some economic benefits during the construction phase when the development would provide jobs. However, given the relatively small scale of the proposal, this benefit would be limited.
20. In contrast, the proposal would harm the living conditions for existing occupiers at Nos 69 and 77. I have concluded that the proposal would conflict with Policies DM14 and DM16 of the Local Plan. This matter carries significant weight against the scheme.
21. Consequently, the adverse impacts I have identified would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole. It therefore follows that the proposal does not benefit from the presumption in favour of sustainable development.
22. For the reasons given above, the proposal would conflict with the development plan and the material considerations, including the Framework, do not indicate that the appeal should be decided other than in accordance with it. The appeal is therefore dismissed.

*A Wright*

INSPECTOR