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# Appeal Decisions

Hearing held on 18 December 2013

Site visit made on 18 December 2013

**by David Nicholson RIBA IHBC**

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

**Decision date: 16 January 2014**

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## **Appeal A: APP/V2255/A/13/2202894**

### **Building No.1, Standard Quay, Abbey Road, Faversham, Kent ME13 7BS**

- 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 Quayside Properties Ltd. against the decision of Swale Borough Council.
  - The application Ref SW/12/1523, dated 28 November 2012, was refused by notice dated 12 June 2013.
  - The development proposed is single storey rear extension + internal alterations to Grade II listed warehouse building with change of use to restaurant + art gallery/function room.
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## **Appeal B: APP/V2255/E/13/2202924**

### **Building No.1, Standard Quay, Abbey Road, Faversham, Kent ME13 7BS**

- The appeal is made under section 20 of the Planning (Listed Buildings and Conservation Areas) Act 1990 against a refusal to grant listed building consent.
  - The appeal is made by Quayside Properties Ltd. against the decision of Swale Borough Council.
  - The application Ref SW/12/1524, dated 28 November 2012, was refused by notice dated 12 June 2013.
  - The works proposed are single storey rear extension + internal alterations to Grade II listed warehouse building with change of use to restaurant + art gallery/function room.
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## **Decisions**

1. **Appeal A is dismissed and Appeal B is dismissed.**

## **Application for costs**

2. An application for costs was made by Quayside Properties Ltd. against Swale Borough Council. This application is the subject of a separate Decision.

## **Main Issues**

3. The two main issues in both appeals are whether the proposals would preserve the special interest of the listed building; and preserve or enhance the character or appearance of the conservation area.
4. Additional issues in Appeal A are the effects of the proposals on:
  - (a) the vitality and viability of Faversham town centre;
  - (b) the marine history of the area and the opportunity for future maritime related activities with particular regard to the amenities of the area;
  - (c) highway safety.

## Reasons

### *Listed building/conservation area*

5. The Faversham Conservation Area includes the older parts of the town. Its 2004 character appraisal (Document 6) summarises its growth from the founding of the royal abbey which lead to merchants' houses being built along the bank of Faversham Creek near the current line of Abbey Street. The latter leads from the appeal site to the town centre and the appraisal emphasises the importance of the Creek to the history of the town and the significance of its conservation area. Standard Quay is the name given to the mooring on the bank of Faversham Creek and to the group of buildings facing it. The appraisal notes that, in 2004, Standard Quay was the town's only traditional, working, waterside environment with its 18<sup>th</sup> and 19<sup>th</sup> century weatherboarded warehouses/workshops which are distinctive for their battered-looking corrugated iron roofs. It refers to the quay as being characterised by the traditional sounds and smells of waterside activities.
6. The appeal site at No.1 is at the east end of this group and is listed at Grade II. The remaining buildings and surrounding hardstanding are all within the appellant's ownership as are the proposed car parking spaces. Standard Quay appears on a map published in 1774 and No.1 is identifiable on a Tithe Map dated 1842. Its listing describes it as early 19<sup>th</sup> century and part of an important complex of 18<sup>th</sup> and early 19<sup>th</sup> century warehouses. The roof to the building was originally hipped, with a tiled covering, but this was seriously damaged by a fire in the mid-20<sup>th</sup> century (before it was listed) and subsequently altered to a steeper gabled roof with corrugated iron sheeting. Other parts of the fabric were also replaced after the fire. The tie beams and vestiges of the principle rafters remain under the later roof.
7. It was agreed at the Hearing that No.1 was probably first built as a granary and that for most of its life it was used as a storage warehouse. From 1992 until 2011 it was leased for marine related uses associated with the repair of Thames barges, including the Cambria which I saw moored up alongside for the winter, while the upper floor was used as a sail loft. The appellant purchased the buildings with sitting tenants. Their lease expired in 2011 and was not renewed. The building is now largely vacant except for some display panels associated with the Cambria and a small amount of other storage. It was also agreed that a permission in 1994 for use as a sail loft and a gallery (Document 7) was implemented although the gallery was never installed.
8. I saw that the building's form and fabric reflect its original use together with many later alterations and minor modifications over the years. I accept that, after the fire, the carpentry holds rather less inherent interest and that, other than as a record of the building's history, no individual piece of its fabric is especially unique. Nevertheless, the workmanlike and utilitarian nature of the building envelope, exemplified by the rough and ready quality of its finishes and internal spaces, all contribute to its special architectural interest and to its historic character as part of the wharf. Overall, I find that the significance of the building lies in the part it plays in the wharf as a whole and by enclosing a space which evokes the utilitarian uses for which it was built and subsequently used. With regard to the conservation area, I find that the significance of the building lies in its contribution to the industrial character of the quay.

9. The works to accommodate the proposed change of use would involve strengthening the roof, inserting a new staircase (previously approved), new windows in previous openings, the insertion of plasterboard between joists and enhanced wall, floor and ceiling linings, and a small extension for new lavatories. Floor strengthening would be kept to a minimum. I acknowledge that all these proposed changes have been carefully considered and well thought through to limit the damage to the fabric of the listed building.
10. Nevertheless, I consider that the special interest in the building lies in the way that its form and finishes as a whole produce a character which evokes the long history of the quay, and the more recent maritime repair uses, rather than in any individual part of its fabric. The changes that would be necessary to turn the building into a restaurant would make its appearance far smarter and more refined. As a result, the overall nature of the building would change and this important element of its special interest would be altered so much that the character of both the building and the conservation area would be significantly damaged. If the appeals were permitted, it would be unreasonable to refuse subsequent consent for cleanable surfaces for food preparation, additional signage or measures to reduce draughts and this incremental damage would further harm to the significance of the listed building.
11. The proposed works would also entail adding insulation, with vapour barriers and fire-proofing to timbers. I have noted the Council's concerns with regard to the effects of vapour barriers on historic timbers, and the English Heritage guidance on these but, given that conditions could be applied to ensure careful detailing and that ventilation could be maintained through the weatherboarding from the outside, I find that for this building these could be overcome.
12. The Council has acknowledged that the works would not reach the hurdle of substantial harm as defined in the National Planning Policy Framework (the *Framework*). As required by paragraph 134, I have therefore weighed the harm I have found against the public benefits of the proposal, including securing its optimum viable use.
13. The appellant has argued that the building is in a poor state of repair and that the works associated with the change of use would stabilise the roof and structure as a whole, deal with the corroding roof covering, and other damage that has been caused to the building over the years. I acknowledge that the gabled configuration is not as stable as the original hipped form and that the proposed strengthening would help its longevity.
14. On the other hand, the building has stood for many years in its current configuration and strengthening the building against high winds, if necessary, would only be a small part of the works. While the current roof covering might not be adequate for its proposed use, it was perfectly acceptable for its last use and, as maritime storage or for maritime related uses, it is probably not necessary for the building to be entirely weather tight or draught proofed. Although the corrugated iron sheets do show some signs of corrosion, in my experience this is not unusual and does not mean that they are in imminent danger of falling apart or in need of more than another coat of paint or some localised repairs. In any event, the sheets could be replaced in due course, either wholesale or piecemeal, without the need for the major changes to the nature of the building envisaged or to the loss of its history that this would cause.

15. The proposals include an art gallery/function room for the first floor and this could be a benefit to the town. On the other hand, there is little detail of what is proposed and no clear way of securing any particular degree of benefit and so I give this limited weight. I note that English Heritage made no adverse comment on the proposals but that is not unusual for Grade II buildings.
16. I have considered whether the proposals would be necessary to enable the building to have a future that would sustain the cost of necessary ongoing maintenance and repairs to the fabric. For the above reasons, I find that the costs to sustain the building for storage or maritime uses need not entail the level of intervention proposed or require works to be done urgently. Moreover, given that the building was in use in roughly its current condition before the last lease was terminated, I find it likely that occupiers could be found to fund the extent of repairs required without changing the use of the building.
17. For all the above reasons, I conclude on this issue that, on balance, the proposals in both appeals would fail to preserve, but would harm, the special interest of the listed building and the character of the conservation area, and that the benefits of the scheme would not outweigh this harm. The proposals would conflict with policies E14, E15, E19 and AAP2 of the Swale Borough Local Plan (LP) which: aim to preserve listed buildings; preserve or enhance the conservation area; expect proposals to promote and reinforce local distinctiveness and sense of place; and maintain or enhance the mix of uses and activity that respect the maritime character of the area. The scheme would be contrary to the *Framework* which requires great weight to be given to the conservation of designated heritage assets, which include listed buildings and conservation areas.

#### *Vitality and viability*

18. The site lies outside the identified primary and secondary shopping frontages in the LP but within the built up area. I am informed in its statement that: *The Council would not for a moment suggest that Faversham town centre is in decline. Nonetheless, it has gone on to advise that it has a duty to defend the vitality and viability of the town centres within the Borough, to ensure that they do not decline.* It has cited LP policies E1, B3, FAV1, AAP1 and AAP2, which: set out general criteria for all development; deal with non-retail development in shopping frontages; set planning priorities for the area within the context of the historic and natural environment as the prime consideration; retain the range of services in the town centre; and maintain or enhance a mix of uses and activity that would respect the character of the varied parts of the AAP area and the encourage the regeneration of the creek basin for commercial and tourism purposes and protect employment uses.
19. The restaurant and art gallery would be tourism related purposes. I have noted the Council's emphasis on public opinion, which would like to see the appeal building returned to a maritime use, but I can find no evidence that the proposals would cause any harm to the vitality and viability of the town centre or that it would offend any relevant LP policy.

#### *Maritime history and maritime related activities*

20. The site has been used for most of its life as a warehouse in connection with the quay but, since 1992, has been used more specifically in support of maritime activity. The 1994 permission for alterations to establish maritime

craft based workshops was implemented at least in part on account of the sail loft. Objectors, including the previous leaseholders, argued that the building represented the last vestige of Thames barge repairing. As well as referring to local opinion, the Council's statement goes on to explain that its objections are connected with the effect of the change of use on the significance of the heritage assets, citing LP policies E1, E15, B5 and AAP2. As above, E1 is a general policy for development; E15 refers to the conservation area; and AAP2 regeneration for commercial, tourism and employment uses. Policy B5 permits tourist attractions.

21. I understand the desire of local residents to see the building put back into maritime repair use. However, there is no certainty that dismissing the appeal would achieve this end. I can find nothing in planning policy that should be used to prevent a restaurant and art gallery on the quay which would, to a degree, act as a tourist attraction. I have noted the Council's reference to heritage assets but this adds little to my findings on the first issues above. On this issue, I find little evidence that a specific maritime use for the whole of the building has been fully established let alone that it should be protected. I find no significant conflict with any policy on maritime history or maritime use.

#### *Highway safety*

22. Access by land to the site is via Abbey Street. This was laid out in the 12<sup>th</sup> century as a grand approach to the abbey. After the threat of demolition in the 1950s, the street was narrowed to reduce traffic nuisance. The Council argued that the scheme would bring more traffic to the street and that this would be detrimental to the amenities of its residents. I also saw that the street narrows beyond the access to a nearby school and that restaurant traffic might continue into the late evening. The appellant has produced evidence that there would be no significant increase in traffic from that which would arise from uses which would be permitted on the site anyway. There have been no serious accidents, and the Highway Authority has made no objection.
23. I acknowledge that the street narrows but also that there are narrow stretches between the main road and the school access. I accept that restaurants can lead to more evening traffic but, if necessary, this is a matter which could be controlled by conditions. For these reasons, I find little evidence that the scheme would cause a significant nuisance or pose an increased risk to highway safety. It would not conflict with LP policies E1 or T1 which set out general criteria for all development, and do not permit development which would decrease highway safety. It would not come close to breaching the requirement in the *Framework* that: *development should only be prevented or refused on transport grounds where the residual cumulative impacts of development are severe.*

#### *Conclusions*

- 23.1 For the reasons given above and having regard to all other matters raised, including the ongoing proposed Faversham Creek Neighbourhood plan and the risk of flooding, I conclude that both appeals should be dismissed.

*David Nicholson*

INSPECTOR

## **APPEARANCES**

### FOR THE APPELLANT:

Nicholas Pryor	JTS Partnership
Simon Latham	Design & Build Services
Michael Seare	MLM Consulting
Michael White	Owner

### FOR THE LOCAL PLANNING AUTHORITY:

Cllr. Brian Mulhern	Swale Borough Council (SBC)
Cllr. R Barnicott	SBC
Peter Bell	Conservation Officer, SBC
Andrew Spiers	SBC

### INTERESTED PERSONS:

Joanna Wood	Local resident
Griselda Mussett	Local resident
Dr Charles Turner	Sandy, Bedfordshire
Brenda Chester	Faversham Creek Trust
Sue Cooper	Sheldwich (previous tenant)
Mike Canty	Local resident
Robert Baxter	Historic Buildings Committee, Protect Kent, CPRE

## DOCUMENTS

- 1 Costs response
- 2 List description
- 3 Plan identifying surrounding commercial uses (appellant's appendix A)
- 4 Neighbourhood plan email
- 5 Site ownership boundary marked up with red and blue lines
- 6 Faversham Conservation Area character appraisal
- 7 1994 planning permission
- 8 2006 planning permission for the Old Granary
- 9 2012 planning permission
- 10 Representation from Griselda Mussett
- 11 Representation from William Croydon (former Chief Executive of SBC)
- 12 Representation from Cllr. Barnicott
- 13 Griselda Mussett's representation on flooding