

Officer Report

Application No.	24/0287/FH/NMA
Site Address	4-5 Gold Heights, Sandgate Esplanade, Sandgate, CT20 3DX
Officer Name	Helena Payne
Proposal	Non-Material Amendment to planning permission Y18/0287/SH to allow for alterations to windows, balconies and doors.

Recommendation

Report Number	RD-434184
Recommended Decision	Recommended to be Refused
Recommendation Date	04 April 2024

Report

Site

4 – 5 Sandgate Esplanade is a detached building situated at the western edge of the Sandgate Esplanade conservation area, and fronting onto the highway. It previously served as Bar Vasa but has been converted to flats (under ref. Y18/0287/SH). There is a block of residential flats to the west and a terrace of four dwellings to the east. The wider street scene is notable for traditional buildings fronting on to the road.

Some of the external works that have taken place are not in accordance with the plans approved under Y18/0287/SH including the design of patio doors and windows to the front elevation and the window design and layout in the side and rear elevations.

The site is within the Sandgate Esplanade conservation area.

Relevant History:

Y18/0287/SH granted planning permission for change of use from restaurant/bar to four self-contained flats, together with associated external alterations – including insertion of French doors at ground and first floor level, and Juliette balconies at first floor. Approved

20/1545/FH - Section 73 application for variation of condition 2 (submitted plans) for planning application Y18/0287/SH (Change of use from restaurant / bar (class A3/A4) to 4 self-contained flats, together with external alterations) to regularise changes to the facade design. Refused.

Proposal

Following the issuing of a Breach of Condition Notice in respect of the works that were not in accordance with the approved plans, officers met the developer on site to check compliance with the Breach of Condition Notice. The correct ground floor patio doors and the ground and first floor

balconies to the front elevation were still awaiting installation. It was also noted that that the following still did not comply with the approved plans in terms of their design and appearance:

West elevation - ground and second floor windows

East elevation - ground and first floor windows, also one first floor window omitted.

North elevation - first and second floor windows.

South elevation - Lower ground floor glazed doors do not extend to the ground as shown, with masonry plinths retained.

Officers considered that, with the exception of the ground floor patio doors to the front (south elevation), the windows as installed are acceptable and the developer was advised to apply for a non material change application if he wished to retain them as installed.

The application is for a non-material amendment to planning permission Y18/0287/SH to allow for alterations to windows, balconies and doors. However, in addition to the changes to the windows on the east, west and north elevations referred to above, the proposed amendments, subject of this current submission, include alterations to the approved balconies and doors on the south elevation, changing from four balconies (one for each window) to two wider balconies, each encompassing two windows. with different railing design at first floor and changing from 4 pane doors French doors to 2 pane sliding doors to the ground floor.

Representations

As an application under s.96a is not an application for planning permission, the Development Management Procedure Order 2015 provisions relating to statutory consultation and publicity do not apply. Therefore, Planning Authorities have discretion in whether and how they chose to inform other interested parties and seek their view. No neighbour notifications have been carried out in accordance with the Council's standard procedure.

Development Plan

The Development Plan for the area comprises the Places and Policies Local Plan (2020) and Core Strategy Review (2022), specifically policies HB1 and HB8.

Planning Appraisal.

The background for non-material amendments is found under section 96a of the Town & Country Planning Act 1990. Planning permission was granted in 2018 for the change of use of Bar Vasa from a restaurant/bar (Class A3/A4) to 4 self-contained flats, together with associated external alterations.

The National Planning Practice Guidance (NPPG) Flexible options for planning permissions at paragraph 002 states "There is no statutory definition of 'non-material'. This is because it will be dependent on the context of the overall scheme – an amendment that is non-material in one context may be material in another. The Local Planning Authority must be satisfied that the amendment sought is non-material in order to grant an application under section 96a of the Town & Country Planning Act 1990".

Consideration

The application building is a well-established building in the street scene.

The amendments subject of this application would see a change to the positioning and sizes of the windows at second, first and ground floor level on the east (side) elevation of the building. The changes show the removal of a first-floor window, leaving the two centrally located windows on this eastern elevation. At ground floor the entrance door would continue to be positioned centrally, but

adopt a slightly different design when compared to the previously proposed scheme, including glass panel above the door. The window left of the door has been altered in size and design and the window to the right remaining the same size but fitted with alternative glazing, removing the lead detailing and including an open fan light detail. The basement window would remain to the left of the access as per the previously approved drawings. Visually, the changes to the eastern elevation are not considered to be significant and would not represent a material change to the development, when compared to the existing. The reorganisation of window openings on this eastern elevation would not be visually prominent and would not therefore be harmful to the character and appearance of the Conservation Area. Further, the changes here would not result in the increase in openings that may otherwise result in the need for further residential amenity considerations beyond those already assessed as part of the 2018 submission.

Similarly, alterations to the windows at first and second floor on the northern (rear) elevation are also proposed. The total number of windows would not change, although the design of the windows is different to those previously approved under the 2018 submission. Much of the multi-pane detailing is now removed. This change is regrettable, as the new glazing is not overly sympathetic to the character and appearance of the building and the mix of multi-pane and single pane windows is not cohesive. However, given single pane windows were approved in some locations on the originally approved plans, it is not considered reasonable to refuse additional ones. It is accepted that, on balance, these changes amount to a non material amendment to the approved scheme in this instance and would not result in harm to the visual amenity, character and appearance of the property, street scene or wider Conservation Area enough to raise concern. Neither would they result in any residential amenity issues over and above those considered at the time of the grant of planning permission.

The western (side) elevation has also been subject to minor change, including a large window in place of two smaller windows located on the west elevation of an extended part of the property. A much larger window is also proposed to the right of the access door, replacing the originally proposed smaller, sash style window as well as the window cill and which in itself does not reflect the character and scale of other windows on this side elevation. A slight change to the size and design of a further ground floor window left of the access door is also shown. Whilst this western side elevation would include a mix of window types both in size and design, and whilst the mix of traditional and contemporary glazing would be visually at odds with each other, given similar style windows have been approved elsewhere on the building, there are no objections to these changes. They are not considered to have any implications for neighbouring residential amenity. The uncharacteristic changes are less than ideal, however, they would not be overly visible (despite the building's elevated position) from within the street scene or wider Conservation Area and are generally considered to be non material to the development itself.

The proposed changes to the southern (front) elevation includes for a very minor alteration to the fenestration at basement/lower ground floor level. The windows either side of the French doors, would be fitted above masonry plinths, instead of full height as previously approved. There are no concerns regarding these alterations, which alone are generally non-material to the wider development.

However, as part of the amendments subject of this current application, the existing ground floor 2 pane sliding patio doors are shown to be retained, instead of the 4 pane French doors shown on the previously approved plans. The visual appearance of sliding doors is visually incompatible with the other glazing in this elevation and would not reflect the fenestration at lower ground floor level or above at first floor, and negatively impacts on the visual appearance of the building. Material

consideration as to the visual impact of these changes, particularly on the character, appearance and significance of the Conservation Area would be required. As well as not amounting in a non-material change in this regard, they are unlikely to be supported as a material change to the approved scheme either. The scale and proportions of the windows are entirely contrary to the historic glazing pattern of the original building. It is noted that the original 2018 application has allowed the insertion of larger areas of glazing to the front, but this was to regularise a collection of French doors and ground floor and first floor and unify the elevation. The changes to the windows from French to sliding patio doors erodes the traditional window arrangement. The modern units remove the traditional character of the property to the detriment of the Conservation Area. It is noted that modern glazing units are present on the terrace of houses immediately to the east (1-4 Loxford Lodge) but that terrace is specifically noted in the Sandgate Design Statement as being a negative contribution to the Conservation Area and therefore, this cannot be used as any form of justification for other similar schemes. Not only are the patio doors material changes to the development, they are also deemed to be unacceptable.

Further, the proposed installation of two larger balconies to encompass two first floor window openings, as opposed to the approved scheme which identifies one balcony per window (totalling 4), would result in an unacceptable material change to the appearance of the development and would result in harm to the significance, character and appearance of the Conservation Area. The alteration to the balconies would be very visually prominent and intrusive within the street scene. These changes are considered to visually detract from the character and appearance of the application property and would not conserve or uphold the character and appearance of the wider Conservation Area. Neither are they considered to be non material.

The southern elevation is particularly prominent and the resultant visual impact from the proposed change to sliding patio doors and larger Juliette balconies are considered to be harmful to the heritage asset, without public benefit, and would detract from the visual character of the building and would not contribute positively to the street scene or Conservation Area and therefore would not be acceptable in the event material changes are sought.

Overall, the proposed amendments to the south/front elevation are not considered to be non-material and should be refused. It is also considered that were a full application be submitted for them it would be unacceptable.

Human Rights

I have also taken into account the human rights issues relevant to this application. In my view, the Assessment section above and the Recommendation represents an appropriate balance between the interests and rights of the applicant (to enjoy his land subject only to reasonable and proportionate controls by a public authority) [and the interests and rights of those potentially affected by the proposal (to respect for private life and the home and peaceful enjoyment of their properties)] and the wider public interest.

Public Sector Equality Duty

In determining this application, regard has been had to the Public Sector Equality Duty (PSED) as set down in section 149 of the Equality Act 2010, in particular with regard to the need to:

- Eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Act;
- Advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it; and

- Foster good relations between persons who share a relevant protected characteristic and persons who do not share it. It is considered that the application proposals would not undermine objectives of the Duty.

It is considered that the application development does not conflict with objectives of the Duty.

Recommendation

Taking the above into account, it is considered the proposal would have a harmful material impact upon the visual amenity of the site and wider Conservation Area and is not considered a non-material amendment.

Recommended Refusal Reasons (1)

1

The proposed amendments to the windows/doors and balconies on the front (southern) elevation, would result in a harmful material impact upon the visual amenity of the building, streetscene and conservation area. The amendments would not preserve or enhance the character and appearance of the Conservation Area and would result in the development being harmful to the significance of the heritage asset in which it is located. The amendments are considered contrary to Policies HB1 & HB8 of the PPLP and Chapter 16 of the the NPPF (2023) and are not considered to be a non-material to planning amendment to planning permission Y18/0287/SH.

Suggested Informatives (1)

2

The refusal is on the basis of the following submitted plans:

08.54/01 Rev A - Site and Location Plan, received 27 March 2024

08.54/12 Rev A - Proposed Elevations (South & East),received 27 March 2024

08.54/13 Rev A - Proposed Elevations (North & West), received 27 March 2024

