
Appeal Decision

Site visit made on 10 October 2016

by Martin Whitehead LLB BSc(Hons) CEng MICE

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

Decision date: 20 October 2016

Appeal Ref: APP/P1045/W/16/3154569

10 Imperial Road, Matlock, Derbyshire DE4 3NL

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission under section 73 of the Town and Country Planning Act 1990 for the development of land without complying with conditions subject to which a previous planning permission was granted.
 - The appeal is made by Granwood Holdings Ltd against the decision of Derbyshire Dales District Council.
 - The application Ref 16/00199/VCOND, dated 16 March 2016, was refused by notice dated 19 May 2016.
 - The application sought planning permission for a change of use of dwelling to office and erection of a garage without complying with conditions attached to planning permission granted on appeal Ref APP/P1045/W/14/3001748, dated 27 April 2015.
 - The conditions in dispute are Nos 4 and 5 which state that:
 - 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. These details shall include hard surfacing materials, surface water drainage, indications of all existing trees and hedgerows on the land or overhanging the site, and details of any to be retained, together with measures for their protection in the course of development. These works shall be carried out as approved and in accordance with the programme agreed with the local planning authority and shall be retained thereafter.'*
 - 5) *'All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons following the occupation of the building or the completion of the development, whichever is the sooner; and any trees or plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species, unless the local planning authority gives written approval to any variation.'*
 - The reason given for the conditions is that they are *'necessary to enhance the character and appearance of the area'*.
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Decision

1. The appeal is allowed and planning permission is granted for a change of use of dwelling to office and erection of a garage at 10 Imperial Road, Matlock, Derbyshire DE4 3NL in accordance with the application Ref 16/00199/VCOND, dated 16 March 2016, without compliance with condition numbers 4 and 5 previously imposed on planning permission granted on appeal Ref APP/P1045/W/14/3001748, dated 27 April 2015, but subject to the other conditions imposed therein, so far as the same are still subsisting and capable of taking effect, and subject to the following new condition:
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- 1) Those trees or plants that have been retained or have been planted as part of the landscape works which within a period of 5 years from the date of this decision die, are removed or become seriously damaged or diseased, shall be replaced in the next planting season with others of similar size and species, unless the local planning authority gives written approval to any variation.

Main Issues

2. The main issues are whether conditions 4 and 5 are reasonable and necessary to enhance the character and appearance of the area and protect highway safety.

Reasons

3. The planning permission has been implemented and a black asphalt hardstanding area has been provided at the front and side of the building, which was formerly a detached dwelling. It appears to me that the appellant has submitted Drawing No N6227-05^D, which shows drainage and landscaping details that have not been carried out, in order to avoid a Breach of Condition Notice but does not consider that these works are necessary. Therefore, I have determined this appeal on the basis of whether the landscaping and drainage works that have already been completed would make conditions 4 and 5 unnecessary.

Character and Appearance

4. Although the appeal site is adjacent to residential properties along Imperial Road to the north west, opposite is an entrance to a roof top car park above a supermarket and to the south east is a doctors' surgery. This gives the surrounding area a mixed commercial and residential character and appearance.
5. The appeal property has retained a mature stone wall and some of the planting along its front boundary and a stone post has been provided on the opposite side of the wide entrance to the property. Whilst I observed at my site visit that there are clear views of the open hardstanding area from immediately in front of the entrance, the front boundary wall and fence and planting along the boundary with the surgery obscure views of this area when travelling along Imperial Road. Therefore, the paving has a limited impact on the street scene. Furthermore, I observed that trees/shrubs have been planted at various intervals along the stone strip inside the boundary fence with the surgery. When fully established, this new planting would help to break up the expanse of paving and provide additional screening when looking from the entrance.
6. Although Drawing No N6227-05^D shows an area of planting adjacent to the entrance post on the boundary with the surgery, it would be too small an area to make any significant difference to the planting that has already been provided. Any material increase in this area of planting along that boundary has been shown by the appellant in Drawing No N6227-100 to be an obstacle to vehicles manoeuvring which could prevent them from entering and leave in forward gear. As such, this planting would potentially be a highway safety hazard. Therefore, given the constraints of the site as a result of the provision of safe and adequate parking and access, I am satisfied that the landscaping

that has been provided would be sufficient, when fully established, to prevent any adverse effect on the character and appearance of the area.

Highway Safety

7. With regard to drainage, Drawing No N6227-05^D shows a cut off drain across the entrance. However, the paved area has a relatively steep gradient on it towards the south east of the site where there is a stone strip which should take much of the surface water before it reaches the highway. Furthermore, Imperial Road has a relatively steep gradient which should prevent any pooling of water. Therefore, I am not convinced by the Council's arguments that the appeal site requires further drainage to prevent any highway safety problems from occurring due to water runoff.

Other Matters

8. In terms of Condition 6, which the previous appeal Inspector has indicated is necessary for highway safety reasons, the Council has accepted that the demarcation of the parking bays on the site could detract from the hardstanding area and draw more attention to the office use. However, I have been given insufficient evidence to show that this is unnecessary, given that the condition has not been the subject of this appeal application. Also, Drawing No N6227-03^C, which forms part of the previous approval, shows that a disabled parking space would be delineated and it seems to me that to secure and retain such a space would be necessary for equality reasons. Furthermore, the condition is necessary to ensure that the space provided for parking and manoeuvring would be retained for these purposes in the interests of highway safety.

Conclusions

9. I have found that the development does not have a harmful effect on the character and appearance of the surrounding area or on highway safety. Therefore, conditions 4 and 5 are neither reasonable nor necessary to enhance the character and appearance of the area or to ensure that the development complies with Derbyshire Dales Local Plan, 2005, policies SF1, SF5, EDT5, EDT6 and NBE26, regarding character and appearance, and TR1, regarding highway safety. However, a new condition to ensure that the retained planting and the new planting that has been provided would be adequately maintained is necessary to safeguard the character and appearance of the area. As such, the development would comply with the National Planning Policy Framework and the development plan as a whole.
10. Therefore, for the reasons given above and having regard to all relevant matters raised, I conclude that the appeal should succeed. I will grant a new planning permission without the disputed conditions but substituting another condition and retaining the relevant other conditions from the previous permission.

M J Whitehead

INSPECTOR