
Appeal Decision

Site visit made on 24 January 2017

by J Dowling BA(Hons) MPhil MRTPI

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

Decision date: 27 February 2017

Appeal Ref: APP/D1590/W/16/3162824

Costal Bite, 15 Palmeira Parade, Western Esplanade, Westcliff-on- Sea, Essex SS0 7RR

- 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 Mr Jason White against the decision of Southend-on-Sea Borough Council.
 - The application Ref 16/00158/BC4, dated 17 March 2016, was refused by notice dated 12 May 2016.
 - The development proposed is install fixed canopy with extract ducting to front elevation and lay out hardstanding (retrospective).
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Decision

1. This appeal is allowed and planning permission is granted for the fixed canopy with extract ducting to front elevation and lay out hardstanding (retrospective) at Coastal Bite, 15 Palmeira Parade, Western Esplanade, Westcliff-on Sea, Essex SS0 7RR in accordance with the terms of the application, Ref 16/00158/BC4, dated 17 March 2016 subject to the following condition:
 - 1) The development hereby permitted shall be carried out in accordance with the approved drawings: Location plan, 15PP/0001, 15PP/0002, 15PP/0003, 15PP/0004 and 15PP/0005.
 - 2) Within three months of the date of this decision letter the extract ducting hereby approved shall be painted to match the existing fascia and thereafter permanently retained.
 - 3) Within three months of the date of this decision letter details of how the existing door to the forecourt area will be adapted to include additional glazing or details of a new glazed door shall be submitted to and approved in writing by the local planning authority. Within one month of approval being given the works to the door shall be undertaken or the new door shall be installed and thereafter permanently retained.

Procedural matter

2. The appellant could not provide a copy of the original planning application form. This is normally used to provide the information for the banner heading. As a result the information provided on the Council's decision letter and on the appeal form was used to populate these fields.
 3. When I visited the site I observed that the frame for the canopy, an extract duct and an area of hardstanding to the front of the premises as shown on the submitted plans had already been installed at the premises. As a result I have
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considered this appeal on the basis that retrospective planning permission is sought for the retention of these works. However, I also observed that there were a number of differences between the submitted plans and what had been built on site these included:

- the instillation of a fascia sign along the top of the canopy at the front of the property; and
- the instillation of wooden flower boxes in the middle of the front openings of the canopy frame.

These elements do not form part of the current appeal and I have considered it on the basis of the submitted plans.

Main Issue

4. The main issue is the effect of the proposal on the character and appearance of Palmeira Parade and the surrounding area with particular reference to the setting of the Leas Conservation Area.

Reasons

5. Costal Bite is a café built into an arch underneath Shorefield Road. The property forms part of a small parade of café's and eateries. All the units within this parade have seating areas to the front of the unit which are protected by awnings of a variety of different ages, designs and sizes. The majority of the awnings appear to either retract or are able to be removed in some way enabling the fronts of the properties to be open to the elements in better weather conditions.
6. Shorefield Road which runs above the appeal site falls within the Leas Conservation Area which is characterised by a range of seaside architecture typical of the early 20th Century. Some buildings and features such as balconies and bays have been lost or altered but many have been retained. These buildings and features contribute positively to the character and appearance of the Conservation Area as a whole and its significance as a designated heritage asset.
7. The proposal is for the retention of a canopy and extract duct to the front of No 15. I note from the evidence submitted with the appeal that it would appear that the canopy has already been the subject of a previous appeal¹ which was dismissed. However, the appellant considers that circumstances have changed since the earlier appeal was determined as a significant number of the other units within the parade have installed new canopies of a similar design to the appeal site and as a result they advocate that the character and appearance of the parade has changed.
8. Whilst the Council consider that the use of a fixed frame canopy is acceptable they advocate that they should have as steeper pitch as possible in order to reflect the character of the original fabric canopies. The appellant advocates that in the case of the appeal property the pitch of the awning is set by the location of the extract ducting and that as a consequence the steeper pitch required by the Council would not be achievable. The Council disagree and have cited the example of other units to the west of No 15 which have

¹ PINS reference: APP/D1590/A/14/2227184

integrated their ducting into the canopy to achieve a steeper pitch. I note that in dismissing the previous appeal the Inspector was not satisfied on the basis of the evidence before them that alternative options for ductwork where a steeper pitched awning is required were not available to the appellant.

9. The appellant has submitted a plan (15PP/0006) which shows an alternative scheme. It would increase the pitch of the canopy by integrating the duct work. However, to achieve this, an increase in the size of the canopy cassette and the relocation, redesign and reorientation of the extract duct would be required. Whilst the proposal would achieve a marginal increase to the pitch I consider that the increase in the size of the canopy cassette would result in a structure of a more solid appearance and the extract duct would be larger and more visually prominent. As a result whilst this might achieve the increase in pitch required by the Council I consider that there would be a marginal improvement to the pitch the resultant structure would be out of character with the more lightweight structures on adjoining units to the detriment of the character and appearance of the general streetscene.
10. I observed at my site visit that of all the units within the parade only Nos 12 and 13 would appear to still have the original canopy and with the exception of these units and the units at either end of the parade all the other properties had fixed canopies of a similar design to that proposed at No 15. Furthermore, I observed that the canopies appear to have a variety of different heights, widths and pitches which was reinforced by the information regarding canopy dimensions provided in the Council's appeal statement.
11. As a result I am satisfied that whilst there are alternative solutions that would enable a steeper pitch on the basis of the evidence before me I consider that these would be more harmful to the character and appearance of Palmeira Parade when balanced against the effect of the current canopy's marginally lower pitch.
12. Given the use all the parties seem to agree that some form of extract ducting is required. Furthermore, due to the subterranean nature of the unit it appears to be common ground that the extract ducting can only vent through the front elevation. I agree with the Council that the extract ducting which is located on the fascia above the canopy is visually prominent. However, I note that it is not dissimilar in size and location to the ducting on neighbouring properties. When I visited the site I observed that the ducting at No 18 has been painted to match the background fascia and as a consequence is considerably less visually obtrusive than the ducting on the neighbouring unit (No 16-17) and at the appeal site. As a result given that some form of ducting would be necessary in order to enable the use to operate I consider that a suitably worded condition requiring the ductwork to be painted to match the fascia would minimise the harm to the character and appearance of the streetscene.
13. When I visited the site the door to the canopy area was not in place. However, I observed that the doorways of all of the properties within the parade that had similar fixed framed canopies were predominantly glazed which I consider reinforced the lightweight appearance of the canopied areas. Whilst I acknowledge that No 15 has a more rustic appearance I consider that the design of the door, whilst it may be removed for most of the day and is possibly more sustainable than a glazed door, would be out of character and

would lead to the front forecourt area having an appearance of an extension which would be harmful to the character and appearance of the streetscene.

14. However, I believe that this concern could be addressed through the use of a suitably worded condition either requiring the current door to be altered to incorporate more glazing or by the instillation of a replacement door more reflective of those found on adjoining properties. As a consequence, subject to such a condition, I do not consider that this would be a valid reason for me to dismiss this appeal.
15. Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires me to pay special attention to the desirability of preserving or enhancing the character and appearance of a conservation area. Whilst the site is not within the Conservation Area given its location it does inform the setting of the Leas Conservation Area. However, given the limited nature of the scheme I agree with the previous Inspector that when viewed in the context of the substantial scale of the buildings on Shorefield Road the proposal would not harm the character and appearance of the conservation area.
16. As a result I consider that the proposal whilst marginally different to other canopies within the parade does not harm the character and appearance of Palmeira Parade and as a result is in accordance with policies KP2 and CP4 of the Southend on Sea Borough Council Development Plan Document 1Core Strategy (2007) (the Core Strategy) and policies DM1, DM5 and DM6 of the Southend on Sea Borough Council Development Management Document (2015) (the DMD) which advocate that development should respect the character and scale of an area and protect Heritage Assets. This is reflected in the advice contained within the National Planning Policy Framework (the Framework) which states that development of a poor design which fails to take the opportunities available for improving the character and quality of an area should be refused.
17. I do not consider policy CP3 of the Core Strategy mentioned by the Council in their first reason for refusal relevant to the determination of this appeal as it deals with improvements to transport infrastructure and services.

Other Matters

18. To support the appeal a public opinion survey about the proposal conducted by the appellant was submitted. However, I have given it very limited weight in coming to my conclusion.

Conditions

19. Paragraph 206 of the Framework sets out a number of tests that conditions need to meet. I have considered the conditions suggested by the Council against paragraph 206 and the advice contained within the Planning Practice Guidance. Where necessary I have adjusted their wording in the interests of clarity. As the development has already been carried out the standard time limit and a condition requiring the use of materials as set out on the application form do not meet the Framework tests as they are no longer relevant. However, for the avoidance of doubt and in the interests of future enforceability I have included a condition that requires the development to be carried out in accordance with the approved plans.

20. For the reasons outlined above in order to minimise the effect of the existing extract flu on the streetscene I have attached a condition requiring that it should be painted to match the surrounding facia.
21. For the reasons outlined above I consider that the door to the front forecourt needs to be redesigned to incorporate more glazing in order to reflect the doors found on adjoining units and to maintain the lightweight appearance of the canopy area which informs the character of the streetscene.

Conclusion

22. For the reasons set out above, and having regard to all matters raised, I conclude that the appeal should be allowed.

Jo Dowling

INSPECTOR