
Appeal Decisions

Site visit made on 15 May 2017

by Diane Fleming BA (Hons) MRTPI

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

Decision date: 14 June 2017

Appeal Ref: APP/Z3635/C/16/3158151 (Appeal A)

Turks Boatyard, Thames Street, Sunbury-on Thames, also known as The Boatyard, Clarks Wharf, Thames Street, Sunbury-on-Thames TW16 5QP

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991.
 - The appeal is made by Mr Peter Sheppard against an enforcement notice issued by Spelthorne Borough Council.
 - The enforcement notice was issued on 25 August 2016.
 - The breach of planning control as alleged in the notice is the unauthorised development of boat/car store on the land, without the benefit of planning permission.
 - The requirements of the notice are to demolish the unauthorised boat/car store and remove from the land any resultant materials.
 - The period for compliance with the requirements is 3 months.
 - The appeal is proceeding on the grounds set out in section 174(2)(a), (b), (f) and (g) of the Town and Country Planning Act 1990 as amended.
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Appeal Ref: APP/Z3635/W/16/3157394 (Appeal B)

Turks Boatyard, Thames Street, Sunbury-on Thames, also known as The Boatyard, Clarks Wharf, Thames Street, Sunbury-on-Thames TW16 5QP

- 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 Peter Sheppard against the decision of Spelthorne Borough Council.
 - The application, Ref 16/00536/FUL, dated 4 April 2016, was refused by notice dated 8 August 2016.
 - The development proposed is described as 'Open covered boat and car parking area'.
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Decisions

Appeal A

1. The appeal is allowed, the enforcement notice is quashed and planning permission is granted on the application deemed to have been made under section 177(5) of the 1990 Act as amended for the development already carried out, namely the erection of an open covered boat and car parking area on land at Turks Boatyard, Thames Street, Sunbury-on Thames, also known as The Boatyard, Clarks Wharf, Thames Street, Sunbury-on-Thames TW16 5QP referred to in the notice, subject to the following conditions:
 - 1) The boat/car store hereby permitted shall be kept available at all times for the parking of motor vehicles and the storage of boats by the occupants of the dwelling and their visitors and for no other purpose.
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- 2) The development hereby permitted shall be maintained with open sides for the lifetime of the development and strictly in accordance with the approved plans: Proposed Elevation (covered parking) dated 15 August 2015 reference 1497/07B.

Appeal B

2. The appeal is allowed and planning permission is granted for an open covered boat and car parking area at Turks Boatyard, Thames Street, Sunbury-on-Thames, also known as The Boatyard, Clarks Wharf, Thames Street, Sunbury-on-Thames TW16 5QP in accordance with the terms of the application, Ref 16/00536/FUL, dated 4 April 2016, and the plans submitted with it, subject to the following conditions:
 - 1) The boat/car store hereby permitted shall be kept available at all times for the parking of motor vehicles and the storage of boats by the occupants of the dwelling and their visitors and for no other purpose.
 - 2) The development hereby permitted shall be maintained with open sides for the lifetime of the development and strictly in accordance with the approved plans: Proposed Elevation (covered parking) dated 15 August 2015 reference 1497/07B.

Appeal A

The ground (b) appeal

3. Under a ground (b) appeal the onus of proof falls upon the appellant to show that the alleged breach of planning control has not occurred as a matter of fact. The appellant's submissions in relation to this ground of appeal refer to the differences between the as-built scheme and the plans approved in connection with a previous grant of planning permission¹ given in 2015. It seems to me though, that these submissions relate to a ground (c) appeal but this has not been pleaded. The boat/car store has been built and therefore as a matter of fact the alleged breach has occurred, as recognised by the Council, and as such the appeal on ground (b) fails.

The ground (c) appeal

4. Under a ground (c) appeal the onus of proof is on the appellant to show that there has not been a breach of planning control. As the appellant's case has sought to do this and the Council's response also addresses this ground of appeal, there would be no injustice or prejudice if I were to deal with the submissions as if this ground had been pleaded.
5. The appellant submits that the boat/car store only differs from the approved plans in small ways; the pitch of the roof has changed and there is the partial enclosure of part of the walls. The Council include a copy of the previous planning permission and I note the description of development is stated as being 'Erection of open-sided boat/car store'. The Council also state that what has been built differs markedly from the approved scheme so as to amount to a new development. In particular, the building is 0.8m higher with a steeper pitched roof and includes a first floor area.

¹ Ref: 15/01108/FUL

6. I find the differences between the as-built scheme and the approved scheme are significant as together they materially affect the external appearance of the building and are readily visible from the public domain. The height of the new boat/car store is noticeably higher than the existing covered car parking area, when the approved scheme showed it was lower, and there is also the addition of an open staircase, a loft area and partially enclosed walls. On this basis the boat/car store has not therefore been built in accordance with the approved plans. I have not been advised of any other applications that have been granted for the boat/car store and as the building on site is a live/work unit, not a single dwelling house, it does not benefit from permitted development rights². As such, there has been a breach of planning control as alleged and the appeal fails on ground (c).

The ground (a) appeal, the deemed planning application and the refusal of the planning application (Appeals A and B)

Main Issues

7. The main issues are the effect of the development on i) the Lower Sunbury Conservation Area (CA), having regard to the statutory duty to pay special attention to the desirability of preserving or enhancing the character or appearance of the CA; and ii) the setting of the River Thames.

Reasons

8. The CA is centred on the narrow Thames Street which runs parallel to the River Thames. The area is mixed in character with a number of residential properties sitting alongside commercial units and with some business activities next to the river. There are also some substantial areas of public open space such as Sunbury Park to the north of Thames Street and riverside parks at either end of the CA. There are a variety of historical buildings which largely turn their back on the river but in between can be found narrow alleys that slope down and lead to the water's edge. The distinctive character and appearance of the CA stems in part from its relationship with the river where there is a mixture of expansive and more intimate views of the water.
9. The appeal site is accessed from one of the alley ways that runs between Monksbridge, a substantial, detached house and No 8 Thames Street. It was formerly part of a larger boatyard that has now been divided into three plots. The appeal premises occupy the middle plot and are separated from the lane that runs to the rear of Nos 8-20 Thames Street by a high timber fence and gate.
10. A live/work unit has been erected on the eastern side of the plot with a covered car parking area to the north and west. The new boat/car store sits in the open space to the west of the unit and is a detached building with a simple structure. A gable end pitched roof is supported by six timber posts. A vertical hit-and-miss fence divides the two bay parking area, which opens on to the entrance gateway into the site, from the rear, slightly lower level, boat store area. An open staircase in the boat store area provides access to a loft storage area that has been created over the boat store.
11. The Council state that the erection of the building has resulted in harm to the views from the river of the rear of the Thames Street buildings. These were

² As set out in the Town and Country Planning (General Permitted Development)(England)Order 2015

visible from across the open boatyard and openness is an important characteristic of the CA. The size of the new building is substantial and it is sited in the middle of the open space adjacent to the live/work unit. Whilst planning permission was given for the erection of a boat/car store, this was a smaller structure that maintained the open character of the area.

12. I consider that the changes that have been made to the approved building have not resulted in harm either to the character or the appearance of the CA or indeed the setting of the river. This is because though there has been an increase in the height and pitch of the roof, the changes that have been made mean that views of the river across the yard are still maintained. Views from the river towards the buildings on Thames Street can also still be appreciated as the buildings are slightly elevated above the level of the river bank where the boat/car store is sited.
13. Whilst there has been some infilling of the area beneath the gable, and either side, of the elevation overlooking the river, this does not detract from the principal feature of the roof, which is the decorative bargeboard and finial. This is because the infilling is in natural wood, which will fade in colour, and is less noticeable than the white-painted bargeboard. Patterned bargeboards are a feature of the buildings near to the river and are included on the live/work unit and the adjacent older building to the east.
14. With regard to the loft storage area, the Council submit that this adds to the bulk of the roof and its visual impact. The appellant explains that the space provides an area to store materials and tools in the event of flooding, which appears to be a more frequent occurrence than in the past. The storage space is modest in size with limited head room and no windows. It is discreetly tucked under the boat store area and has a limited effect on the bulk of the roof which is mainly derived from the length, height and width of the building.
15. Condition 1 of the approved scheme for the boat/car store required a roof covering of timber shingles. The CA statement (CAS) also refers to the Turks Boatyard as a pleasant mixture of timber shingled buildings. However, the CAS was written in 1992 and at the site visit I was unable to see any timber shingled buildings adjacent to the river in this area. The live/work unit on site (given planning permission in 2007) and the adjacent older building to the east have corrugated roofs. The appellant states that the new dwelling to the west ('Kingfisher') has a slate roof. Having regard to the surrounding area, the appellant used slate to cover the roof of the boat/car store. Whilst timber shingles were present in the past, and their re-introduction would reference that past, which would be an enhancement, I find the use of slate preserves the character and appearance of the CA and the setting of the river.
16. For these reasons I conclude that the development does not result in harm either to the character or appearance of the CA or to the setting of the river. It therefore accords with Policies EN1, EN6 and EN9 of the Council's Local Plan.³ These require that new development should achieve a high standard of design, that retains views and vistas that are important to the character of the area and that it respects the setting of the river, amongst other matters. The appeal on ground (a) therefore succeeds. I give these policies weight as they are consistent with the requirement for good design set out in the National Planning Policy Framework.

³ Spelthorne Borough Council Core Strategy and Policies Development Plan Document Adopted 26 February 2009

Conditions

17. I have considered the three conditions suggested by the Council against the advice in the Planning Practice Guidance. A condition to require that the facilities provided are maintained for the benefit of the development is both necessary and reasonable given the location of the building. It is also necessary to impose a condition to ensure that the structure is maintained with open sides to ensure that the development is flood resistant, resilient and does not increase flood risk on or off site. The third condition, which would require the roof to be covered in timber shingles, is not necessary for the reasons I have already discussed.

Conclusions

Appeal A

18. For the reasons given above I conclude that the appeal should succeed on ground (a) and planning permission will be granted. The appeal on grounds (f) and (g) does not therefore need to be considered.

Appeal B

19. For the reasons given above I conclude that the appeal should be allowed.

D Fleming

INSPECTOR