The Planning Inspectorate

Appeal Decision

Site visit made on 26 March 2019

by N Thomas MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 29 April 2019

Appeal Ref: APP/V2255/18/3214285
19 Victory Street, Sheerness, Kent ME12 1NZ

- 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 Manga Dhillon of Fans UK Limited against the decision of Swale Borough Council.
- The application Ref 18/502592/FULL, dated 9 May 2018, was refused by notice dated 9 August 2018.
- The development proposed is 'retrospective planning for' 1 bedroom flat with external staircase.

Decision

1. The appeal is allowed and planning permission is granted for a 1 bedroom flat with external staircase at 19 Victory Street, Sheerness, Kent ME12 1NZ in accordance with the terms of the application, Ref 18/502592, dated 9 May 2018, and the plans submitted with it, subject to the following condition:

    1) The use and other operations hereby permitted shall cease and the external staircase be removed and all equipment and materials brought onto the land for the purposes of such use and materials resulting from the demolition shall be removed within 30 days of the date of failure to meet any one of the requirements set out in i) to iv) below:

        i) Within 3 months of the date of this decision a scheme for the painting of the external staircase in black to match the railings shall have been submitted for the written approval of the local planning authority and the scheme shall include a timetable for its implementation.

        ii) If within 11 months of the date of this decision the local planning authority refuse to approve the scheme or fail to give a decision within the prescribed period, an appeal shall have been made to, and accepted as validly made by, the Secretary of State.

        iii) If an appeal is made in pursuance of ii) above, that appeal shall have been finally determined and the submitted scheme shall have been approved by the Secretary of State.

        iv) The approved scheme shall have been carried out and completed in accordance with the approved timetable.

        Upon implementation of the approved scheme specified in this condition, that scheme shall thereafter be maintained.

        In the event of a legal challenge to this decision, or to a decision made pursuant to the procedure set out in this condition, the operation of the

time limits specified in this condition will be suspended until that legal challenge has been finally determined.

Procedural Matter

2. The appeal relates to the first floor of the building which is in use as a one bedroom flat. It is accessed via a terrace to the rear and an external metal staircase. The submitted details indicate that permission is sought for the use of the first floor as a one bedroom flat and the external staircase. I have amended the description of the development to remove unnecessary wording and this forms the basis of my decision.

Main Issue

3. The main issue is the effect of the external metal staircase on the character and appearance of the site and the Sheerness Mile Town Conservation Area (CA).

Reasons

4. The CA is centred on the town centre of Sheerness, which is mostly C19 in origin, having begun its development in anticipation of the seaside resort potential of the area, with subsequent growth driven by the expansion of the role of the nearby Naval Dockyard during the Crimea War. Transport links were improved in the late C19 with the Sittingbourne to Sheerness railway line, with its terminus close to the appeal site. During the 1930s the town became a low cost holiday resort, popular with Londoners, declining in the second half of the C20.

5. Buildings in the town centre are generally modest but reflect the town's developing functions, giving it a practical and bustling character. The appeal site falls within an area of rectilinear small streets adjacent to the High Street, which were originally fronted by timber-framed cottages and later C19 brick built terraced houses. However, much of the area has been redeveloped, including with large open car parks, although parts of the street layout continue to provide evidence of the pattern of development. Victory Street provides evidence of the grid layout, and contains two small terraces and the former public house at the appeal site, on the edge of the CA. 19 Victory Street makes a positive contribution to the CA, as a retained older building in an area which has been subject to redevelopment.

6. The appeal proposal has resulted in an external metal staircase on the flank elevation of the building, which is open to views from the main A250 Millennium Way and to the front from Victory Street. The flank elevation is partially screened by vegetation but the staircase is visible in local views. I saw on my site visit that there is a degree of visual clutter in the immediate area, including highway railings, street lights, signage and fences. In the wider area, I saw a variety of metal railings on boundaries, as well as an external metal staircase which is visible across the open car park on the other side of Victory Street. Rear elevations of buildings fronting the High Street are also visible, creating a varied and busy appearance.

7. In this context, the external metal staircase is not a feature that appears intrinsically out of character. Notwithstanding this, the galvanised metal elements appear stark and functional, and combined with the black metal

railings gives the staircase a discordant appearance. I note however that the appellant is willing to paint the staircase, which would result in a more harmonious and coherent appearance, and would thereby preserve the character and appearance of the CA. I therefore find that, subject to a condition requiring the galvanised metal elements to be painted black to match the railings, the proposed development would not be harmful to the character and appearance of the site and the CA. In reaching this conclusion, I have had regard to the statutory duty under Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 to pay special attention to the desirability of preserving or enhancing the character or appearance of the Conservation Area.

8. As a result, I do not find any conflict with policies DM14 and DM33 of the Swale Borough Local Plan 2017, insofar as they seek to ensure that new development conserves and enhances the built environment and preserves or enhances all features that contribute positively to the special character and appearance of a conservation area. I also find no conflict with the guidance in the National Planning Policy Framework.

Other Matters

9. I note that the Council has raised concerns in the Planning Officer's report regarding the effect of the extraction system and air conditioning units associated with the use of the ground floor of 19 Victory Street on the living conditions of future occupiers with regard to noise and odour. However, this did not form a reason for refusal and the Environmental Health Officer notes that there is no evidence that nuisance is being caused and that conditions could not be imposed on the existing use of the ground floor premises. I have no reason to disagree with this conclusion.

Conditions and Conclusion

10. The purpose of condition 1 is to require the appellant to comply with a strict timetable for dealing with the painting of the metal staircase, which needs to be addressed in order to make the development acceptable. The condition is drafted in this form because, unlike an application for planning permission for development yet to commence, in the case of a retrospective grant of permission it is not possible to use a negatively worded condition precedent to secure the subsequent approval and implementation of the outstanding detailed matter because the development has already taken place. The condition therefore provides for the loss of the effective benefit of the grant of planning permission where the detailed matters in question are not submitted for approval during the time set by the condition, approved (either by the local planning authority ("LPA") or by the Secretary of State on appeal), and then implemented in accordance with an approved timetable. Should the requirements of the condition not be met in line with the strict timetable, then the planning permission falls away.

11. For the reasons given above, and taking into account all matters raised, I conclude that the appeal should be allowed.

N Thomas

INSPECTOR