



Appeal Decision

Site visit made on 29 July 2020

by Paul T Hocking BA MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 14 August 2020

Appeal Ref: APP/D1265/C/19/3233059

15 High Street, Swanage BH19 2LP

- 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 Law against an enforcement notice issued by Dorset Council.
 - The enforcement notice was issued on 14 June 2019.
 - The breach of planning control as alleged in the notice is: Without planning permission, the erection of a wooden clad store structure with canopy in the position shown on the Plan attached to the notice outlined in blue.
 - The requirements of the notice are: Completely remove the wooden clad shed structure and canopy / roof structure covering the storage area / air conditioning units / extractor units from the land edged in blue.
 - The period for compliance with the requirements is 6 months.
 - The appeal is proceeding on the grounds set out in section 174(2)(a), (e) and (f) of the Town and Country Planning Act 1990 as amended. Since the appeal has been brought on ground (a), an application for planning permission is deemed to have been made under section 177(5) of the Act.
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Summary of Decision

1. The appeal is dismissed and the enforcement notice upheld with a correction.

Preliminary Matter

2. The parties agreed that I could undertake my site visit on an unaccompanied basis without the need to enter the site. I have no reason to disagree with this conclusion and injustice to the parties would not arise from this course of action.

The Enforcement Notice

3. The alleged breach of planning control refers to the development enforced against as a '*...wooden clad store structure...*' whilst the requirement of the notice is to remove a '*...wooden clad shed structure...*'. For consistency I shall correct the notice to refer to a store throughout. Injustice to the parties would not arise from making this correction.

The ground (e) appeal

4. This ground of appeal concerns whether the enforcement notice was properly served on everyone with an interest in the land.

5. The appellant states that it is not known for sure if the notice was served on the owners of the site as the addresses on the face of the notice are the leaseholders and the occupiers.
6. The Council has confirmed that the notice was served on all persons identified through a Land Registry search and were either hand delivered to the site or evidence is then provided of postage. This then does not appear to be disputed by the appellant. I am consequently satisfied that it has been demonstrated on the balance of probabilities that the notice was properly served on everyone with an interest in the land.
7. I conclude that consequently the appeal on ground (e) fails.

The ground (a) appeal

Main Issue

8. The main issue is whether or not the wooden clad store structure preserves or enhances the character or appearance of the area, having particular regard to designated heritage assets.

Reasons

9. The site comprises the rear yard of a commercial premises within the town centre of Swanage. It is situated within the Swanage Conservation Area (the CA) and No.15 forms part of a row of terraces fronting the High Street which are Grade II listed. The development enforced against relates to a flat roofed wooden clad store structure which can be seen in-part from Cliff Place, which is a narrow pedestrian link between Marshall Row and the High Street.
10. The site therefore lies within the CA and adjoins the Grade II listed building. In determining this appeal, I have duties to pay special attention to the desirability of preserving or enhancing the character or appearance of the CA and to have special regard to preserving the setting of listed buildings. As designated heritage assets, these are irreplaceable, and so any harm or loss requires clear and convincing justification. The National Planning Policy Framework (the Framework) advises that any harm which is less than substantial must be weighed against the public benefit of the proposal.
11. The site derives its significance from its location within the CA being defined by the modest two-storey cottages in Cliff Place and taller buildings along the High Street. The Historic England listing description for the row of terraces then records the significance of these buildings in respect of their architectural detailing, notwithstanding later alterations. The pattern and grain of historic development in this area and use of vernacular materials therefore defines the value of the location.
12. In contrast, I could see during my site visit that the structure enforced against appears to be of makeshift construction and consequent appearance. It is of poor design. This is entirely at-odds with the character, design detailing and pattern of vernacular built development in the immediate area.
13. It is also a conspicuous structure with public views obtainable of part of it from Cliff Place. Whilst I accept that in the immediate area there has been modern infilling as well as other developments, some with flat roofs, the area retains much of the character and detailing of its historic past. I am therefore not

persuaded that there is far more tolerance to further changes as a result, or that this assists with the integration of the appeal structure. The structure, owing to its location, use of materials and design, does not preserve the appearance, setting and character of heritage assets or positively integrate with its surroundings.

14. I appreciate the appellant contends the structure replaced a largely similar one that had been in existence for some time and which was in need of substantial repair. However, I have only limited evidence concerning the former structure and whether it was lawful. Moreover, that structure has been replaced and its former presence is not sufficient to persuade me to grant planning permission for a development that is harmful in itself.
15. I conclude that the wooden clad store structure fails to preserve or enhance the character or appearance of the area, having particular regard to designated heritage assets, and contravenes Policies LHH: Landscape, Historic Environment and Heritage and D: Design of the Planning Purbeck's Future, Purbeck Local Plan Part 1, November 2012. These policies, amongst other things, require development to conserve the appearance, setting and character of heritage assets and positively integrate with their surroundings. For the same reasons it fails to comply with the achieving well-designed places objectives of the Framework.
16. In the terms of the Framework, the structure enforced against results in less than substantial harm to the designated heritage assets and it must therefore be weighed against any public benefit that would arise from it. Whilst I appreciate the structure is intended to serve the commercial use of No. 15, and it presumably might serve a useful function in this regard, I have very little clear or convincing evidence from the appellant concerning public benefit in which to outweigh the harm to the designated heritage assets that I have identified.

Conclusion

17. For these reasons and having regard to all other relevant matters raised, I conclude that the appeal on ground (a) should fail.

The ground (f) appeal

18. The purpose of the enforcement notice is clearly to remedy the breach of planning control. It does not seek to under-enforce as it requires the complete removal of the store structure. Therefore, for an appeal on ground (f) to succeed it would be necessary for the appellant to explain why the steps required by the notice to be taken exceed what is necessary to remedy the breach of planning control and propose lesser alternatives.
19. The appellant contends that allowing an improved store structure to be retained would still preserve the designated heritage assets. It is then suggested that it should only be a requirement to remove part of the canopy.
20. However, such a proposal amounts to an alternative scheme to that enforced against. There are also no elevational or other such details of this proposal before me, or indeed an appeal against any such scheme. Moreover, it would not remedy the breach of planning control that has actually been enforced against, which relates to the entirety of the wooden clad store structure.

21. As no other lesser alternatives are before me, I conclude that the appeal on ground (f) fails.

Overall Conclusion

22. For the reasons given above I conclude that the appeal should not succeed. I shall uphold the enforcement notice with a correction and refuse to grant planning permission.

Formal Decision

23. It is directed that the enforcement notice be corrected by:

- replacing the word '*shed*' for '*store*' within the requirement of the notice.

24. Subject to this correction the appeal is dismissed and the enforcement notice is upheld, and planning permission is refused on the application deemed to have been made under section 177(5) of the 1990 Act as amended.

Paul T Hocking

INSPECTOR