



Appeal Decision

Site visit made on 12 September 2022

by J E Jolly BA (Hons) MA MSc MCIH MRTPI

an Inspector appointed by the Secretary of State

Decision date: 22nd September 2022

Appeal Ref: APP/L2250/W/21/3283388

Claverley, 145 Queens Road, Littlestone TN28 8NA

- 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 (a) 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 Mr D Briault (Boathouse Properties) against the decision of Shepway District Council.
 - The application Ref 20/1740/FH/CON, dated 10 November 2020, was refused by notice dated 30 June 2021.
 - The application sought planning permission for variation of condition 2 and removal of conditions 7 and 8 of planning permission Y13/1206/SH and subsequently amended under planning application Y16/0559/SH, to enable creation of additional ground floor residential units, together with minor alterations) without complying with conditions attached to planning permission Ref Y18/0524/FH, dated 5 October 2018.
 - The condition in dispute is No 11 which states that: Prior to the first occupation full details of both hard and soft landscape works (expanding on Drawing 14.11.20 Landscape Strategy Plan and submitted Soft Landscaping Strategy) shall be submitted to and approved in writing by the Local Planning Authority including an implementation programme and maintenance schedule. All hard and soft landscape works shall be carried out in accordance with the approved details. The works shall be carried out prior to the occupation of any part of the development or in accordance with the programme agreed with the Local Planning Authority. The soft landscape works shall be maintained in accordance with the agreed maintenance schedule.
 - The reasons given for the condition is: to protect and enhance the appearance of the area in accordance with saved policies SD1 and BE16 of the Shepway District Local Plan Review.
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Decision

1. The appeal is dismissed.

Preliminary and Procedural Matters

2. The Government published a revised National Planning Policy Framework (the Framework) in July 2021. All references to the Framework in this decision relate to the updated document.
3. Since the disputed condition was imposed Shepway District Council has adopted the Places and Policies Local Plan 2020 (SPPLP). As such, Policies SD1 and BE16 of the former Shepway Core Strategy Plan 2013 have been deleted and replaced by Policies C1 and C3 contained within the new SPPLP. I have proceeded accordingly.

4. Planning permission Y18/0524/FH granted permission for 21 flats with parking subject to conditions including condition No 11. The permission has been implemented and the development was completed before the application subject of the appeal was made.
5. Evidence submitted with the appeal confirms, that drawing: 'Landscape Strategy Plan, 14.11.20' was superseded by drawing: 'Landscape GA Plan, Drawing Number: 14.11.600 P5'. Indeed, at my site visit I observed that a post and rail fence has been installed rather than a white-rendered brickwork wall. Therefore, the evidence on the ground also indicates the condition was breached before the planning application was made.
6. Accordingly, I have determined the appeal on the basis that it seeks to retain the development subject to drawing: 'Landscape GA Plan, Drawing Number: 14.11.600 P5' without complying with the disputed condition under section 73 (a) of the Town and Country Planning Act 1990.

Main Issue

7. The main issue in this case is the effect of the deletion of the disputed condition on the character and appearance of the area.

Reasons

8. 'Claverley' is an apartment building that is located at the junction of Queens Road and 'Grand Parade' which is a road that runs along the seafront at Littlestone. The built-form on the seafront is typified by multi-storey apartment buildings set behind a footway and verges many of which have low-lying walls to the forward boundary. The lawned area opposite the appeal site on the eastern side of 'Grand Parade' forms part of a Site of Special Scientific Interest (SSSI).
9. The disputed condition was imposed for the provision and maintenance of hard and soft-landscaping works in order to protect and enhance the character and appearance of the area. The works pertinent to this appeal is the new boundary treatment at 'Claverley'. A soft-timber post and rail fence with maritime type planting and shingle to the rear was constructed rather than the brick and render wall that was conditioned by the Council.
10. The appellant contends that the development is of a high standard. However, the weak boundary surrounding 'Claverley', which is in part punctuated by bushy vegetation, is at odds with not only the contemporary style and finishes of the host building but also the solid lines and more robust materials of the neighbouring boundary treatments on this section of Grand Parade.
11. Moreover, once mature the natural style maritime vegetation, which already permeates through the timber rail fence, is likely to erode unobstructed passage for those moving along the footway on 'Grand Parade', particularly for those with mobility issues.
12. I acknowledge that there is a slim metal rail and concrete post fence on the opposite side of the road. However, in contrast to the timber boundary treatment of the appeal site, this fence bounds a spacious lawned area rather than an apartment building and is not lined by a footway.

13. Nevertheless, the appellant's ecologist contends that the timber boundary and planting enhances and blends with the adjacent SSSI. However, while the scheme is in many ways laudable, even if a credible maintenance plan were in place for the treatment and upkeep of the soft-wood timber fence, from the evidence before me, I cannot be certain whether the plants would be prone to wind damage or failure on this seafront location without the protection of a solid wall.
14. Furthermore, notwithstanding that the appellant has brought to my attention the financial pressures of development, any enhancements to the nearby SSSI provided by the relatively modest development would be minimal, and therefore, does not outweigh the harm I have found above.
15. Consequently, in my view, the disputed condition is reasonable and necessary and its proposed removal would harm the character and appearance of the area.
16. As such, the deletion of the disputed condition would be contrary to Policies C1 and C3 of the SPPLP which, amongst other things, expect that all new major development to demonstrate a deliverable and fully resourced project for fostering a sense of place through methods such as landscaping, public art, water features, lighting and/or through the use of historic references, and Paragraph 130 (c) of the Framework which says that developments should be sympathetic to local character and history, including the surrounding built environment and landscape setting.

Other Matters

17. I acknowledge that the Council has suggested that there might be an alternative and acceptable solution for the boundary treatment at 'Claverley'. However, this is a matter for the parties and not for my consideration as part of this case.
18. While a number of residents have indicated that the timber boundary is mostly satisfactory, occupation of the development will undoubtedly change over time. Therefore, I cannot be certain this opinion will always be the case. Hence, I give this matter minimal weight.

Conclusions

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

J E JOLLY

INSPECTOR