



Appeal Decision

Site visit made on 24 May 2023

by Geoff Underwood BA(Hons) PGDip(Urb Cons) MRTPI IHBC

an Inspector appointed by the Secretary of State

Decision date: 12 July 2023

Appeal Ref: APP/B1740/W/22/3312170

75 High Street, Lymington, Hampshire SO41 9YY

- 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 Hiscox against the decision of New Forest District Council.
 - The application Ref 22/10484, dated 21 April 2022, was refused by notice dated 5 September 2022.
 - The development proposed is a new 3 bay garage; with associated hard and soft landscaping works.
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Decision

1. The appeal is allowed, and planning permission is granted for a new 3 bay garage with associated hard and soft landscaping works at 75 High Street, Lymington, Hampshire SO41 9YY in accordance with the terms of the application, Ref 22/10484, dated 21 April 2022, subject to the conditions set out in the schedule attached to this decision letter.

Preliminary Matter

2. The proposal was amended whilst under consideration by the Council and that was the scheme upon which the Council made its decision. I have therefore used the revised description of development in the heading above and in my decision.

Main Issues

3. The main issues raised by this appeal are the effect the development would have on the character and appearance of the Lymington Conservation Area and on the special architectural and historic interest of the grade II listed 75 High Street.

Reasons

4. With the High Street running down the centre, the Conservation Area covers an extensive part of the town centre including the many historic buildings along the main streets and less formal spaces beyond. This includes the historic layout of the town where elongated burgage plots extend to the rear of properties on High Street making an important contribution to the historic character and appearance of the Conservation Area, including where later buildings have remained set within the earlier medieval plot pattern.
5. No 75 is one such property. Its significance as a listed building derives not just from its age, attractive C18 architecture and group value with its neighbours

- but also in its plot form and layout with the principal building fronting High Street and its long burgage plot extending to the rear in what would appear to be a little altered extent.
6. However, recent development has been constructed within the boundary of the plot. This includes a dwelling close to No 75 itself and another under construction at the opposite, School Lane, end of the plot. Both of these are set within the historic boundary and are situated to the east side of the plot. I noted a number of buildings along School Lane similarly set within their respective burgage plots.
 7. In this context the proposed garage block would follow the linear orientation of the School Lane building under construction and that behind No 75. Although slightly deeper than the School Lane building, the proposed garage would remain off set from the plot boundary. Its height and separation from the building would give it a subservient scale and appearance, and its situation within the plot would follow the rhythm of recent development facing School Lane. Its location in line with these other two developments would leave an undeveloped spine along the full depth of the west side of the burgage plot. It would leave sufficient space between the front of the garage and the opposing boundary wall such that the spaciousness and depth of the burgage plot would still be capable of being appreciated and perceived.
 8. Although the Council consider the proposal overly wide it is unclear whether this relates to its depth or frontage extent. However, the proposed garage would not penetrate so deeply either into or across the burgage plot that it would significantly erode or encroach on the space in either direction.
 9. Consequently, even when considered with the other development, the proposal would not harmfully erode the burgage plot nor encroach into it to an extent that would prevent it from remaining as a legible plot associated with No 75. I have had special regard, and paid special attention, to preserving the listed building and preserving or enhancing the Conservation Area respectively. In doing so the special architectural and historic interest, and hence significance, of both designated heritage assets would be preserved as a result of the proposed development.
 10. The importance of retaining burgage plots is emphasised in Council guidance, including the Lymington Local Distinctiveness SPD¹ (LLDSPD) and Conservation Area Appraisal² (LCAA). The Town Centre Character Area Guidance in the former is general in the context of this proposal but the LCAA sets a guideline³ that no more than a third of what it terms unintensively developed plots should be occupied by building. Notwithstanding that this uses the vague terms of 'front part' and 'rear half' of plots, the evidence does not point to the proposal and the consented development together occupying more than a third of the plot behind No 75, and the proposal would accord with the principle of the guidance, even though it does not carry the same weight as the development plan.

¹ Lymington Local Distinctiveness Supplementary Planning Document, 2011.

² New Forest District Local Plan Supplementary Planning Guidance: Lymington – A Conservation Area Appraisal, 2002.

³ Paragraph 4.8.2.

11. As the significance of both designated heritage assets would be preserved, the development would accord with Local Plan Part 2⁴ (LP2) Policy DM1.
12. The importance of the survival of intact burgage plots in Lymington is also recognised by LP2 Policy LYM9 which includes No 75 in its list of properties. This seeks to avoid development that would significantly encroach into rear gardens. For the above reasons whilst the proposed garage would take up some space in the burgage plot, space would remain opposite and between it and the development under construction closer to No 75. Even taking these existing developments into consideration the proposal could not be considered to result in a significant encroachment. The size, shape and extent of the burgage plot would remain intact and legible. As the proposal would not affect the boundary of the historic burgage plot it would not conflict with the Policy's other initial criteria.
13. However, the proposal would not result in a limited rear extension of a property fronting High Street as it would be a free standing building some distance from No 75. As such it would not accord with the final part of LP2 Policy LYM9 which restricts further development in burgage plots to such proposals. Notwithstanding this, development has occurred both adjacent to No 75 and at the other end of the plot. It is also evident that nearby burgage plots have been developed in a similar manner where they are clearly not rear extensions of the High Street properties.
14. In the absence of any evidence that the particular circumstances that led to this approach differed from those of the current proposal, conflict with this part of the Policy can only carry very limited weight. The material considerations of other approved development not being limited rear extensions of High Street properties and importantly that the development would preserve the significance of designated heritage assets, indicates that a decision contrary to the development plan would be appropriate in this instance.
15. I have given great weight to the conservation of the designated heritage assets. However, as no harm would occur to their significance, the balancing approach set out in the National Planning Policy Framework is not engaged in this instance.

Conditions

16. Attaching a condition specifying the approved drawings provides certainty for all parties. Bearing in mind its sensitive location and guidance in the LCAA it is necessary to require samples of the facing materials to be approved. Given the importance the LLDSPD gives to burgage plots as being main elements of green infrastructure and as very limited information of soft landscaping has been provided, it is necessary to require details to be approved in order that the character and appearance of the Conservation Area is preserved.
17. Given the likelihood of presence of archaeological remains on the site it is necessary to ensure that any evidence is correctly investigated and recorded. As such investigation must be undertaken before building work starts there is a clear justification for a pre-commencement condition in order for it to be effective.

⁴ New Forest District Council Local Development Framework: Local Plan Part 2: Sites and Development Management - New Forest District outside the National Park, 2014.

Conclusion

18. For the above reasons, the development would preserve the special architectural and historic interest of designated heritage assets, and material considerations indicate that a decision should be taken otherwise than in accordance with the development plan in this case. The appeal is therefore allowed.

Geoff Underwood

INSPECTOR

SCHEDULE OF CONDITIONS

- 1) The development hereby permitted shall begin not later than three years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved drawings: 6341.P100; 9341.P101B, and; 9341.P102.
- 3) No construction above foundation level shall commence until samples of the materials to be used in the construction of the external surfaces of the building hereby permitted have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved samples.
- 4) Notwithstanding any details shown on the approved drawings, no construction above foundation level shall commence until details of both hard and soft landscaping works have been submitted to and approved in writing by the local planning authority. The landscaping works shall be carried out in accordance with the approved details. All hard landscaping shall be implemented before any part of the building is first brought into use. All soft landscaping shall be carried out in the first planting and seeding seasons following any part of the building first being brought into use or the completion of the development, whichever is the sooner. Any trees or plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species.
- 5) No site preparation, clearance, excavation nor development shall take place until an archaeological Written Scheme of Investigation (the Scheme) has been submitted to and approved in writing by the local planning authority. The Scheme shall include an assessment of significance and research questions, and:
 - i) the programme and methodology of site investigation and recording;
 - ii) the programme for post investigation assessment;
 - iii) the provision to be made for analysis of the site investigation and recording;
 - iv) the provision to be made for publication and dissemination of the analysis and records of the site investigation;

- v) the provision to be made for archive deposition of the analysis and records of the site investigation, and;
- vi) the nomination of a competent person or persons/organisation to undertake the works set out within the Scheme.

Thereafter, no site preparation, clearance, excavation nor development shall take place other than in accordance with the approved Scheme.

*** end of Schedule of Conditions ***