



Appeal Decision

Site visit made on 30 January 2024

by E Grierson BSc (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 15 February 2024

Appeal Ref: APP/L2250/D/23/3323543

Hillcrest, Blackhouse Hill, Hythe, Kent CT21 5UP

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant consent, agreement or approval to details required by a condition of a planning permission.
 - The appeal is made by Mr Paul Woodward and Mrs Yvonne Holder against the decision of Folkestone and Hythe District Council.
 - The application Ref 23/0338/FH/CON, dated 2 March 2023, sought approval of details pursuant to condition No 3 of a planning permission Ref 22/1549/FH, granted on 9 December 2022.
 - The application was refused by notice dated 31 March 2023.
 - The development proposed was the retention of retaining wall.
 - The details for which approval is sought are: a 1.8 metre high screen to be erected on the southern retaining wall closest to the common boundary with Boundary House.
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Decision

1. The appeal is dismissed and approval of the details is refused, namely the details of a 1.8 metre high screen submitted in pursuance of condition 3 attached to planning permission Ref 22/1549/FH dated 9 December 2022.

Main Issue

2. The main issue is whether the details submitted are sufficient to discharge condition 3 attached to planning permission Ref 22/1549/FH in relation to a 1.8 metre high screen.

Reasons

3. Planning permission was granted for the retention of a retaining wall on the appeal site. This was subject to a condition which, within 3 months of the date of the decision, required the submission of details of a 1.8 metre high screen to be erected on the southern retaining wall closest to the common boundary with Boundary House to be submitted to the Local Planning Authority for its written approval. This condition was included by the Council to mitigate any loss of privacy to the occupiers of the neighbouring dwelling resulting from the approved development.
4. In order to discharge condition 3, the appellants have submitted a written statement indicating that they intend to erect a willow wall immediately to the rear of the approved retaining wall for 4.6 metres of the wall length. This includes upright willow rods, horizontal rods and weavers to create a woven diamond pattern which would be at least 1.8 metres in height. The appellants have also stated that they intend to erect 6 metres of evergreen laurel next to the boundary fence with 1 metre of pleaching above the fence. During my site

visit I saw that some planting had been implemented along the boundary with Boundary House. However, in its current state, this did not provide effective screening as required by the condition.

5. Whilst the willow wall would extend to 1.8 metres in height, due to the nature of planting, there is no guarantee that the foliage would provide adequate screening up to this height or would be maintained accordingly. Due to the deciduous nature of willow this is particularly the case in the winter months where coverage would be reduced. Although the use of the appellant's garden may be low during this time, this would not negate the reason for the implementation of the condition. Furthermore, no details have been provided in relation to the density and location of planting or how it would be maintained, including the evergreen laurel. Therefore, it is not possible to fully deduce whether the proposed screen would be sufficient to fulfil its requirement.
6. For the reasons above, I conclude that the details submitted are insufficient to discharge condition 3 attached to planning permission Ref 22/1549/FH in relation to the erection of a 1.8 metre high screen.

Other Matters

7. It is noted that the appellants consider that condition 3 is unnecessary and that the retaining wall does not result in a level of harm to the occupiers of the neighbouring property that requires mitigation. Their statement requests a view as to whether the condition is reasonable. However, the appeal, as detailed on the appeal form submitted, relates to the application Ref 23/0338/FH/CON, in relation to the approval of details pursuant to condition 3. Therefore, the appeal before me is not one against the condition itself and whether the condition is necessary or reasonable does not form part of my considerations.

Conclusion

8. For the reasons set out above and having regard to all other matters raised, the appeal is dismissed.

E Grierson

INSPECTOR