



Appeal Decision

Site visit made on 25 June 2024

by Andy Harwood CMS MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 5 July 2024

Appeal Ref: APP/K1128/C/24/3336685

Land at Appledore, Island View, Thurlestone, Kingsbridge, Devon TQ7 3NH

- The appeal is made under section 174 of the Town and Country Planning Act 1990 (as amended). The appeal is made by Mr William Oliver Hodshon against an enforcement notice issued by South Hams District Council.
 - The notice was issued on 11 December 2023.
 - The breach of planning control as alleged in the notice is:
Without planning permission:
 - i. the erection of a wooden fence on top of an existing low level wall (together referred to as "the boundary enclosure") adjacent to the highway so as to increase the overall height of the boundary enclosure to exceed 1 metre in height above ground level adjacent to the highway; and
 - ii. the installation of a hinged wooden gate and a sliding wooden gate ("the gates"), both exceeding 1 metre in height above ground level adjacent to the highway.
 - The requirements of the notice are to:
 - i. Reduce permanently the overall height of the boundary enclosure (including posts) down to 1 metre; and
 - ii. Reduce permanently the overall height of the gates (including posts) down to 1 metre; and
 - iii. Remove from the Land all materials associated with compliance with paragraphs 5(i) and 5 (ii) above.
 - The period for compliance with the requirements is: Two months.
 - The appeal is proceeding on the ground set out in section 174(2)(a) of the Town and Country Planning Act 1990 (as amended). Since an 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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Decision

1. The appeal is allowed, the enforcement notice is quashed and planning permission is granted on the application deemed to have been made under section 177(5) of the 1990 Act as amended for the development already carried out, namely:
 - i. the erection of a wooden fence on top of an existing low level wall (together referred to as "the boundary enclosure") adjacent to the highway so as to increase the overall height of the boundary enclosure to exceed 1 metre in height above ground level adjacent to the highway; and
 - ii. the installation of a hinged wooden gate and a sliding wooden gate ("the gates"), both exceeding 1 metre in height above ground level adjacent to the highway;at Appledore, Island View, Thurlestone, Kingsbridge, Devon TQ7 3NH as shown on the plan attached to the notice.

Preliminary Matters

2. I carried out an unaccompanied site visit and viewed the appeal site and surroundings entirely from publicly accessible land.

The Appeal on ground (a)

3. Under this ground of appeal, I have to consider whether planning permission ought to be granted for the matters stated on the notice as the breach of planning control.

Main issue

4. The main issue is the effect of the development on the character and appearance of the site and surrounding area.

Reasons

5. The appeal site is within Island View which is a mainly residential street in an area of Thurlestone which includes dwellings which appear more modern than the traditional core of the village. The dwellings here are mostly set behind enclosed front gardens along with some open spaces. The immediate area therefore has a suburban character different from much of the village.
6. There is a varied way in which the front gardens are separated from the road in this part of the village. There are a number of low rendered walls, some similar to what appears in the photographs of the appeal site before the development took place but there are also higher rendered walls. Timber is also a common fencing material. The style of how timber is used varies substantially from solid long stretches of high, close-boarded around a parking area close to the junction of the road, to low picket-fencing such as that around the nearby open-space. Many of the boundaries including those low structures, do have some large trees and shrubs protruding above them. Similarly, some less solid enclosures such as the hit and miss and picket fences, have grass and other planting visible through them. However there are also properties such as the terrace opposite the site where there is far less soft landscaping and a harder margin between the dwellings and the road.
7. The fencing and gates around the appeal site at the back edge of the footpath, are higher than some nearby boundary enclosures but not entirely so. There are examples of high rendered walls and larch-lap fencing very close to the appeal site. The construction of the development on the appeal site is somewhat unique in the area with substantial timbers laid horizontally. The timbers appear to have become more silver since the Council took the photographs attached to the notice which may be down to the effects of weather conditions. This weathered appearance is very similar in hue to other timber structures close to the road along the frontages of other properties within the same street. The overall appearance of the fencing and gates looks refined and a modern approach of using traditional material but in a different manner, which does not look out of place.
8. The photographs that accompanied the notice show that the development may have been somewhat stark shortly after construction but what I saw when I visited had satisfactorily blended into the street-scene. To assist with that, greenery has also grown behind the structure and is now apparent into the street-scene.

9. In relation to the main issue, the development has a satisfactory effect on the character and appearance of the site and surrounding area. This is a high quality development which conserves and contributes positively to the townscape of the area, its visual quality and local distinctiveness which therefore complies with Policies SO6, SO11, SPT1, DEV20 and DEV23 of the Plymouth and South West Devon Joint Local Plan 2014-2034 (LP). As such, the development has no adverse impact upon the South Devon Area of Outstanding Beauty conserving its character and appearance. Therefore, this also complies with LP Policy DEV25 and with Policy TP1 of the Thurlestone Parish Neighbourhood Plan.

Other matters

10. The Council has not demonstrated how the development has any effect upon the delivery of sustainable development, the vitality and viability of the settlement, the health and amenity of the area or how the policies in relation to those matters should apply to this development. As such there is no conflict with LP Policies SO8, DEV1 and TTV2.
11. No conditions have been suggested and as the development has already been completed in an acceptable manner, I do not consider that any are necessary.

Conclusion

12. Having had regard to the development plan as a whole and all other material considerations, I conclude that the development is acceptable. For the reasons given above, I conclude that the appeal succeeds on ground (a). I shall grant planning permission for the development as described in the notice.

Andy Harwood

INSPECTOR