



Appeal Decision

Site visit made on 12 September 2024

by C Butcher BSc MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 22nd October 2024

Appeal Ref: APP/U1105/W/24/3345882

Tanyards Court, Beer Road, Seaton, Devon EX12 2PA

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
 - The appeal is made by Churchill Retirement Living Ltd against the decision of East Devon District Council.
 - The application Ref is 23/2167/FUL.
 - The development proposed is the erection of seagull netting on roof of Tanyards Court.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. I observed on my site visit that the development has been completed in accordance with the approved plans. I have therefore determined the appeal on the basis that retrospective permission is sought for the development which has already been implemented.

Main Issue

3. The main issue is whether the development preserves or enhances the character or appearance of the Seaton Conservation Area, and whether it preserves the setting of Belmont House, a Grade II listed building.

Reasons

4. The appeal site is located within the Seaton Conservation Area, which comprises the town centre and is located close to the seafront. From the evidence before me, and from what I saw when I visited the site, the significance of the Conservation Area, in so far as it is relevant to this appeal, is derived from the value of the development of Seaton town centre, and the architectural styles and tastes of the time. It has an aesthetic value due to the appearance of many of the buildings within its boundary.
5. Tanyards Court is a relatively large block of flats which is of a more modern construction than many of the buildings in the vicinity. However, its general appearance is fairly unremarkable, and it makes a neutral contribution to the significance of the Conservation Area. The development has involved the installation of an expanse of netting that is supported by a series of fairly large poles. Due to the height of these poles, and the prominence of the building itself, the netting is a highly obvious feature within the street scene which can be clearly seen from various vantage points within the Conservation Area,

including from Queen Street which is one of the key thoroughfares through the town centre.

6. The appellant has produced a heritage statement which concludes that the netting has not resulted in harm. However, in my view, the netting appears as a highly unattractive feature which detracts from the character of the surroundings. Furthermore, it also appears to add height to the building thereby making it appear more dominant within the street scene, to the detriment of the more attractive buildings nearby.
7. The appeal site is also located adjacent to Belmont House, a Grade II listed 19th century townhouse. Its significance derives from its general appearance, including the attractive veranda and traditional sash windows. Given the proximity of Tanyards Court to Belmont House, it is inevitable that the harm that I have identified to the Conservation Area also extends to the setting of the listed building.
8. The Planning (Listed Buildings and Conservation Areas) Act 1990 (The Act) requires that special attention is paid to the desirability of preserving or enhancing the character or appearance of the Conservation Area and preserving the setting of the listed building. In this instance, due to the limited scale of the development, the harm is relatively localised. However, the appeal site is located quite centrally within the Conservation Area, on top of a prominent building, and so this localised harm is also harmful to the character and appearance of the Conservation Area as a whole. The development is also harmful to the setting of the listed building.
9. It therefore has a negative effect on the significance of these designated heritage assets and would result in 'less than substantial harm'. In these circumstances, the National Planning Policy Framework (the Framework) requires that this harm must be weighed against public benefits. Great weight must be given to a designated heritage asset's conservation and any harm to its significance requires clear and convincing justification.
10. In this instance, the benefits of the scheme appear to be very limited in nature. I recognise that gulls can be a nuisance, however, there is nothing before me to suggest that they have been causing significant damage, either to the roof of the building or to parked cars nearby. There is also no substantive evidence that leads me to conclude that the gulls represent a danger to pedestrians. The appellant has mentioned that the netting has been designed in such a way so as to minimise any negative impact on the birds themselves. However, while this is to be welcomed, it does not represent a public benefit that weighs in favour of the scheme. I therefore conclude that the public benefits do not outweigh the less than substantial harm I have identified.
11. The proposed development would therefore fail to preserve or enhance the character or appearance of the Conservation Area and the setting of the listed building and would result in harm to their significance. This would fail to satisfy the requirements of The Act and the relevant aspects of the Framework, and would also conflict with Policies D1, EN9 and EN10 of the East Devon Local Plan, 2016. The relevant aspects of these policies seek to ensure that new development is well designed and that it preserves character and appearance, including the significance of designated heritage assets. I recognise that the Council's decision notice does not specifically refer to harm

to the setting of the listed building. However, for the avoidance of doubt, my decision would not have been any different had I only considered harm to the Conservation Area alone.

Other Matters

12. The appellant has noted that there are other examples nearby of similar netting on rooftops within the Conservation Area. While I agree that this is the case, it is not clear to me whether these developments have received planning permission. In any event, each case must be considered on its merits and this issue does not justify allowing a scheme that I have found to be harmful.

Conclusion

13. The proposed development conflicts with the development plan when considered as a whole. There are no material considerations, either individually or in combination, that outweigh the identified harm and associated development plan conflict. The appeal is therefore dismissed.

C Butcher

INSPECTOR