
Appeal Decision

Site visit made on 5 February 2014

by Wendy J Burden BA(Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 13 February 2014

Appeal Ref: APP/U1105/A/13/2206781

Longboat Cafe, Marine Parade, Budleigh Salterton, EX9 6NS

- 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 Brent Hushon against the decision of East Devon District Council.
 - The application Ref 13/0889/FUL, dated 23 April 2013, was refused by notice dated 22 July 2013.
 - The development proposed is demolition of existing café and construction of new café facility.
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Decision

1. The appeal is allowed and planning permission is granted for demolition of existing café and construction of new café facility at Longboat Cafe, Marine Parade, Budleigh Salterton, EX9 6NS in accordance with the terms of the application, Ref 13/0889/FUL, dated 23 April 2013, subject to the conditions set out in the attached Annex.

Main Issue

2. The main issues are whether the proposed redevelopment would cause harm to the character of the area and the setting of the Conservation Area, Coastal Preservation Area and World Heritage Coast

Reasons

3. The appeal scheme was subject to screening for Environmental Impact Assessment (EIA). It was concluded that the scheme was not EIA development. Since the proposal would not cause any significant environmental harm to the designated Area of Outstanding Natural Beauty (AONB) or to the Budleigh Cliffs Site of Special Scientific Interest I agree with that conclusion.

The appeal site and its location

4. The existing Longboat café is a single storey structure, with an open area for seating, which faces on to the level sea front promenade towards the eastern end of the Budleigh Salterton sea front. To the rear of the building and the open seating area is the retaining wall to Coastguard Hill. To the east of the café, levels between the promenade and Coastguard Hill continue to diverge and where the retaining wall ceases, red sandstone cliffs become exposed. These form a part of a SSSI notified for its geological interests. The cliffs are

also designated as part of the Dorset and East Devon Coast World Heritage Site (WHS).

5. There is some debate as to whether the café lies within the WHS, which is defined as applying between the Mean low water mark and the break in the upper line of the cliffs (where cliffs exist) or the back edge of the beach where there are no cliffs. The Local Planning Authority consider that there are no cliffs to the rear of the appeal site, since the retaining wall is believed to hold back fill material from when the road was constructed, and therefore the site lies outside the WHS. Nevertheless, it is the impact on the setting of the WHS and the World Heritage Coast which lies to the east and south of the site which is the issue in this case. Circular 07/09 (Protection of World Heritage Sites) states that the main objective should be the protection of each WHS through conservation and preservation of its Outstanding Universal Value.
6. The Budleigh Salterton Conservation Area (CA) lies to the west of the site, and Policy EN11 of the East Devon Local Plan (EDLP) states that proposals, including those that affect the setting or views into or out of the area, will only be permitted where they would preserve or enhance the appearance and character of the area. This reflects the statutory requirement set out in Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 which requires me to pay special attention to the desirability of preserving or enhancing the character or appearance of the CA. In addition to these designations, the whole of the settlement of Budleigh Salterton lies within the East Devon AONB.

Planning history

7. Planning permission was granted in 2010 for the demolition of the Longboat café together with the local authority shelter which abuts the open seating area, and the construction of a new two storey café on the ensuing site. The Local Planning Authority confirms that all the pre-commencement conditions on that permission have been discharged, and that a start has been made on the development through the construction of a section of the foundations along the eastern wall. That planning permission therefore remains valid. Nevertheless, the shelter is outside the ownership of the appellant, and since difficulties were encountered in securing possession of the shelter, the appellant has sought to obtain permission for an alternative scheme.
8. Planning permission was refused for a smaller proposal which was similar to the scheme now subject to appeal in February 2012. However, even though it has not been possible for the appellant to secure the whole of the site required to complete the outstanding permitted scheme, in view of the status of the permission, that situation could change. Therefore the existing valid planning permission and the potential for that scheme to be built, remains an important material consideration in the determination of this appeal.

Impacts of the appeal proposal

9. In assessing the application for the scheme which now has a valid planning permission, the Council instructed LDA Design to carry out an independent appraisal of the potential landscape and visual impacts of the redevelopment of the café. The scheme which has permission is significantly larger than the proposal now subject to appeal. It provides for a substantial two storey building of modern design which would largely extend across the footprints of

the shelter, the open air seating area and the existing café, with an internal floor area of some 366sm. The current proposal is of similar crisp and modern style and uses the same palette of materials. However, with an internal floor area of 150sm it is substantially reduced in scale from the permitted scheme, and no longer includes the site of the public shelter.

10. Having regard to the similarity in style and materials to the permitted scheme, I consider that the findings of the independent appraisal undertaken for the permitted scheme remain relevant to the scheme which is now subject to appeal. Having visited the site and considered all the submissions made in the current appeal I agree that although the site lies within the East Devon AONB, it is contained within the built environment of Budleigh Salterton, and forms a part of the built fabric of the seafront. In this position the site has limited visual influence over the surrounding area, and to the extent to which it does appear within a view, it is seen within the context of the built form of the town. The site is most prominent in close up views from the west along Marine Parade and the beach, but it still clearly forms part of the urban context with the rural landscapes of the AONB forming a more distant backdrop. As a result I agree with the findings of the appraisal that the redevelopment of the café would have no impact on the wider character and scenic beauty of the AONB. It would not therefore be in conflict with policies which seek to protect the AONB as set out in the National Planning Policy Framework (NPPF) or the East Devon Local Plan (EDLP) (Policies S4 and EN1).
11. The most significant views of the appeal site are from the south along the beachfront. In a prominent location along the shore the site forms a part of the seafront and its urban setting, and lies immediately adjacent to the exposed cliff section of Coastguard Hill. Since there are unlikely to be any cliffs, and certainly there are no exposed cliffs to the rear of the appeal site, the redevelopment of the site would not impact on the geology or the Outstanding Universal Value of the SSSI or WHS, and no objection to this effect has been raised by English Nature. However, the Council and other objectors have raised concerns about the impact on the setting of the WHS.
12. The Dorset and East Devon Coast World Heritage Site Management Plan sets out the basis on which the setting of the WHS is defined. That states that the setting should be regarded as the surrounding landscape and seascape and concerns the quality of the cultural and sensory experience surrounding the exposed coasts and beaches. However, in views from the east of the Coastal Cliffs landscape to the west of the town, the site is largely obscured by the protruding landform of Coastguard Hill, and where it is visible, it is set against a backdrop of buildings which occupy the sloping ground behind the cliffs at the western end of the town and which locate the site as part of the established urban setting. As such, an appropriate redevelopment of the site would not detract from the character or natural beauty of the cliff landscape beyond the developed area to the west.
13. The most prominent views of the appeal site are from the west along Marine Parade and the beach to the south. However, it is seen together with the beachside huts and the buildings along Marine Parade and Coastguard Hill. As such the site is very much a part of the seafront's urban setting and forms a part of the town's existing built environment which is an established component of the coastal landscape of the area. As such, an appropriate redevelopment of the site would have a negligible effect on the character and

natural beauty of the wider natural environment of the Coastal Preservation Area and World Heritage Coast. Planning permission is in place for a larger and more prominent building at the appeal site. Having regard to the reduction in the scale of the building now proposed, I consider that the appeal scheme would have no harmful impact on the setting of the WHS in this location within the built confines of the town. It would not therefore cause harm to the qualities identified in the WHS Management Plan.

14. Turning now to the effect on the townscape and the Buddleigh Salterton CA, the appeal site lies just outside, to the east of, the CA. Whilst it is not part of the fabric of the CA, it does form a part of its setting. In addition to EDLP Policy EN11 which deals with the preservation and enhancement of the CA, Policy D1 is concerned with matters of design and local distinctiveness.
15. The site lies below the level of the road and footpath of Coastguard Hill, and fronts the path which runs along the foot of the cliffs to the east. The existing buildings are single storey and do not appear above the level of the road and footpath. Local objectors to the redevelopment of the site argue that the building has historic connections and should be preserved. However, it has been considered for listing and English Heritage concluded that the building has been heavily altered and has lost its historic fabric. As a result it is now considered a poor example of a late 19th Century longboat house. It has not been listed, and could be demolished as part of the implementation of the outstanding planning permission.
16. Where the appeal site does appear within the townscape, it is seen in the context of the wider setting of Marine Parade, Coastguard Hill and Coastguard Road to the north. To the western end of Marine Parade there are a series of large traditional villas, mainly two storey in height although most have a third storey either in the roof space or at garage level which increases the overall scale of the buildings. Moving east along Marine Parade more modern flats have been developed which are in excess of four storeys in height, and the Conservation Area Appraisal includes a four storey contemporary rendered development of flats to illustrate the character of the area. At a higher level overlooking the coast are the flats of Coastguard Road which are primarily three and four storey.
17. The appeal scheme would be mainly single storey with a sitting out area over part of the building, and a further storey added above the eastern part of the building. Materials would include painted render to the ground floor which would reflect the painted finish to the existing villas and flats, and cedar cladding to the first floor to be stained to echo the red colour of the adjacent cliffs. The structure would include large areas of glass to provide café users with open views to the sea. The appeal scheme would have the appearance of an airy and contemporary building, and the sweep of the roof would provide an elegant finish. In view of its position within the urban form of the town, its scale and its design, I find that the proposed redevelopment would be neither out of scale nor visually intrusive within the townscape, and it would accord with EDLP Policy D1. Indeed it would provide an attractive feature within the built up seafront, which would both preserve and enhance the character and appearance of the area together with the setting of the CA in accord with EDLP Policy EN11.

Other matters

18. I have had regard to all the other matters raised in the representations, including concerns about the danger of storm surge. However, the Environment Agency has accepted that the site is unlikely to be at risk of flooding in view of the relevant levels of the promenade. Natural England has expressed concerns about future coastal protection which might obscure cliffs or limit natural processes, but in the absence of wave action this is unlikely to be required. A gap would be retained between the side of the new building and the shelter such that use of the shelter would not be impaired.

Conditions

19. The Council has submitted a list of conditions to be imposed in the event that the appeal is allowed and planning permission is granted. I have considered these conditions against the tests in Circular 11/95 and find that, with some minor amendments, they meet the tests in the Circular. In relation to condition 4, the Council refer to a drawing number which is not with the appeal documents. I have therefore required the submission of a scheme without reference to any current drawing.

Overall conclusion

20. Whilst I understand the concerns expressed by local residents and the Town Council, and it is important that local views are taken into account, those views must be weighed together with all other material considerations. Nowhere does the NPPF state that decision-making should be on the basis of a count of those in favour compared to those against or that the level of local objections in itself should be a reason to withhold permission. In this case there is a valid planning permission for a significantly larger replacement building. The appeal scheme is for a similar style of building of smaller scale and I have found that it would not be an intrusive or harmful feature in the AONB or in the setting of the Conservation Area, Coastal Preservation Area or World Heritage Coast. Furthermore the redevelopment of the café would provide an improved facility within the gateway town on the Jurassic Coast thus contributing to the role of the town as a tourist destination. I therefore conclude that the appeal should be allowed.

Wendy Burden

INSPECTOR

Annex 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 plans: Nos 724 L 01.01A, 01.02A, 02.01, 04.02, 04.03; P2887-LC.
- 3) No development shall take place until samples of the zinc material to be used in the construction of the roof 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 details.
- 4) Before the use hereby permitted begins, a scheme for the installation of equipment to control the emission of fumes and smell from the premises shall be submitted to and approved in writing by the Local Planning Authority. The scheme as approved shall be implemented. All equipment installed as part of the scheme shall thereafter be operated and maintained in accordance with the manufacturer's instructions.
- 5) Prior to the commencement of the development hereby permitted full details of all internal and external lighting shall be submitted for the written approval of the Local Planning Authority. Such details shall include the siting and design of any light sources and levels of illumination from the proposed sources as well as intended hours of illumination. The building shall thereafter only be internally and externally illuminated in accordance with the approved details.
- 6) No works for the construction of the building hereby approved shall be undertaken on Saturdays, Sundays or Public Holidays between 15 June and 4 September in any calendar year. On other days no construction work shall be undertaken outside of the following hours 0730 hours and 1800 hours Mondays to Fridays inclusive and 0800 and 1300 hours on Saturdays with no works on Sundays or public holidays.
- 7) Before the development hereby permitted is first commenced a schedule of demolition and construction works shall be submitted to and approved in writing by the local planning authority. Such schedule shall include a timetable for the demolition of the existing building and the programming of the various stages of construction of the new building, including all measures to be taken and arrangements to be made to secure the site and to avoid any disruption to the public right of way in front of the site and the public highway to the north during all of these works. Demolition and construction works shall then be carried out in accordance with the approved schedule.

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