

Appeal Decisions

Site visit made on 25 February 2015

by S J Papworth DipArch(Glos) RIBA

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

Decision date: 2 March 2015

Appeal A: APP/X2220/A/14/2222188

The Silver Lion, New Street, Deal, Kent CT14 6JY

- 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 David Warden against the decision of Dover District Council.
 - The application Ref DOV/14/00206, dated 5 March 2014, was refused by the Council by notice dated 8 May 2014.
 - The development proposed is retrospective application for the rebuilding of brick work, render and painting of dwelling.
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Appeal B: APP/X2220/E/14/2222179

The Silver Lion, New Street, Deal, Kent CT14 6JY

- The appeal is made under section 20 of the Planning (Listed Buildings and Conservation Areas) Act 1990 against a refusal to grant listed building consent.
 - The appeal is made by Mr David Warden against the decision of Dover District Council.
 - The application Ref DOV/13/00827, dated 14 June 2013, was refused by the Council by notice dated 6 May 2014.
 - The works proposed are changing of colour of three sides of the dwelling to Johnson's/Leyland colour S-1029-G which was created to match the Little Greene Paint Company "Green Verditer".
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Decisions

1. I dismiss both appeals.

Main Issue

2. In both appeals this is the effect of the paint colour on the architectural or historic significance of the listed building and on the character and appearance of the Middle Street Conservation Area.

Reasons

3. Objective 3.2.10 of the Core Strategy is to ensure the intrinsic quality of the historic environment is protected and enhanced and that these assets are used positively to support regeneration, especially in Dover. Paragraph 132 of the National Planning Policy Framework states that when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation. In this case the listed building, other listed buildings nearby and the wider conservation area are all designated heritage assets. Sections 16(2) and 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 require special regard to be had to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses, and section 72(1) of

the same Act requires special attention to be paid to the desirability of preserving or enhancing the character or appearance of the conservation area. The Kent Design Guide includes at paragraphs 1 and 2 of "Alterations and Extensions to Historic Buildings" advice that a sympathetic approach is required in areas where there are historic buildings and townscape, and that even seemingly minor alteration can be damaging to an individual building or group.

4. The appeal property is covered by The Deal Middle Street Conservation Area Article 4(2) Direction which relates to that clause in the Town and Country Planning (General Permitted Development) Order 1995 as amended. This Direction has the effect of removing from being permitted development Class C of Part 2 of Schedule 2, consisting of the painting of the exterior of any part which fronts a relevant location, of a dwellinghouse or any building or enclosure within the curtilage of a dwellinghouse. As a result the choice of colour becomes a matter for application and permission.
5. The appellant draws attention to the use of this colour in other locations within the Dover District Council area and states that the effect of colour choice is a subjective matter. However, the matter of colour choice, as with other considerations in conservation areas and planning more generally, is not to be judged solely on its abstract qualities, but how it is used, and the context of that use. A colour that may be appropriate in one place may not be appropriate in another. It was apparent at the site inspection that a similar colour may have been used further south along Middle Street, near its junction with Brewer Street, but in that case the building is significantly smaller and the effect is not comparable.
6. The context of the appeal property is the Middle Street Conservation Area where there is a relatively restricted palette of materials including brick and render, and the rendered properties are characterised by a limited and muted range of paint or wash colours. White and near-white predominate and where another colour has been used these tend to be subdued, such as earth colours, or pale pastel shades. The colour in place on the appeal property is however over-assertive, vibrant, and intense, and in relation to the properties and finishes in the vicinity, is inappropriate to the architectural and townscape qualities of the conservation area. The appeal property is large, as is the expanse of painted surfaces, and is set within a narrow street. The paint colour taken together with the size and dominance of the facade in the street scene means that the choice of colour fails to preserve either the architectural interest of the listed building or the character and appearance of the conservation area.
7. There does appear to be, as asserted by the appellant, a connection with English Heritage paint research in the formulation of 'Green Verditer' which can be traced to historic use, stated to be the Regency. However, the test in this case is the character and appearance of the conservation area as well as the preservation of the listed building and the established character and appearance is as previously described, a limited palette of more muted colours. The works carried out fail the tests in the 1990 Act, although with regard to the Framework, the harm may be described as 'less than substantial', a differentiation required between paragraphs 133 and 134 of that document. In this case the latter applies and this states that where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the

proposal, including securing its optimum viable use. There does not appear to be any risk of the dwelling falling out of its beneficial viable use through the refusal of permission and consent for this colour choice, and the public benefits of the work carried out do not outweigh the harm. For the reasons given above it is concluded that both appeals should be dismissed.

S J Papworth

INSPECTOR

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