

Room 1404
Tollgate House
Houlton Street
Bristol BS2 9DJ

Direct Line 0117-987 8927
Switchboard 0117-987 8000
Fax No 0117-987 8769
GTN 1374

Mr G Terry BA(Hons)DipTP MRTPI
8 Rowanhayes Close
IPSWICH
IP2 9SX

Your Ref:

Our Ref:

T/APP/D3505/A/96/264203/P7

Appeal de re
excavation for hardstanding

Date: 18 OCT 1996

Dear Sir

TOWN AND COUNTRY PLANNING ACT 1990, SECTION 78 AND SCHEDULE 6
APPEAL BY MR & MRS R T WATTS AND MRS J E BROWN
APPLICATION NO: B/95/0844

1. I have been appointed by the Secretary of State for the Environment to determine this appeal against the decision of the Babergh District Council to refuse planning permission for the alteration to parts of front gardens (involving regrading of ground levels following removal of mid 1960s rockeries) formation of 2 vehicular accesses and hardstanding and construction of walls and steps etc with associated landscaping at 'Riverside Cottage' and 'Seagulls', Pin Mill Road, Pin Mill. I conducted a hearing into the appeal on 2 October 1996. At the hearing, an application was made on behalf of Mr & Mrs R T Watts and Mrs J E Brown for an award of costs against Babergh District Council. This is the subject of a separate letter.
2. You argue that the appeal proposals constitute permitted development under the terms of the Town and Country Planning (General Permitted Development) Order 1995 [GPDO], and that the planning application was made without prejudice to this view. You have specifically requested a ruling on this issue, although I note that no application has been made for a determination under Section 192 of the Town and Country Planning Act 1990.
3. The appeal site lies within the Pin Mill Conservation Area. Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires me to pay special attention in such cases to the desirability of preserving or enhancing the character or appearance of the Conservation Area. It is also close to 'The Butt and Oyster' public house, a Grade II listed building. I have, therefore, borne in mind the duty imposed by Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 to have special regard to the desirability of preserving the setting of a listed building. In addition Pin Mill is within the Suffolk Coast and Heaths Area of Outstanding Natural Beauty [AONB]. Such areas are designated for their landscape quality and national policy, contained in Planning Policy Guidance 7 [PPG7], is that long term protection should be accorded to the rural character, with priority normally being given to their landscape over other considerations.

4. From the statements made at the hearing, the written representations and my inspection of the site and its surroundings, I consider that there are two main issues in this appeal. The first is whether the proposed works can be regarded as permitted development within the curtilage of a dwelling house by virtue of the GPDO. The second issue is the impact of the proposed development on the character and appearance of the Pin Mill Conservation Area, together with the AONB within which it lies, and whether the setting of the nearby listed public house would be preserved.

5. In relation to the first issue you argue that the remodelling of the garden areas, including the modification of levels, is incidental to the formation of a vehicle hardstanding for each property. This, together with the provision of a vehicular access to each hardstanding are both in themselves permitted development under the terms of the 1995 GPDO. Moreover in your opinion the remodelling, which does not involve walling facing on to Pin Mill Road above a height of 0.8m, is permitted by the provisions of Class A, Part 2 of the same Order.

6. The Council drew attention to the substantial works of excavation needed to remodel the front gardens in order to facilitate the provision of the hard surface at a usable level. As some 50 cubic metres of earth would have to be removed, the Council could not accept that such an engineering or building operation could be regarded as ancillary or associated works, but represented a separate and distinct operation requiring planning permission. A number of precedents were submitted in support of the Council's case, consisting of extracts from appeal decision letters and reports of High Court judgements.

7. In this case it seems to me that your clients' intention in proposing the remodelling works is clearly to create a parking area at a substantially lower level than that of the existing gardens, not merely to provide a satisfactory foundation for the paving. The magnitude and visual impact of the works would thus far exceed the simple laying of a hard surface envisaged in the GPDO. In these circumstances I am satisfied that the amount of excavation required in order to create the proposed hardstanding is such that it must be regarded as a separate engineering operation and not ancillary to the provision of the hard surface. The examples submitted by the Council appear to me to bear out this view. In my opinion, therefore, planning permission for the proposed development is necessary.

8. Turning to the second issue, the development plan for the purposes of this appeal comprises the 1995 Suffolk County Structure Plan [SCSP] and the Babergh Local Plan [BLP], alteration No 1 of which was also adopted in 1995. SCSP Policies CS11, ENV1, ENV3 and ENV7 accord high priority to the protection of the character of conservation areas, Heritage Coast areas and AONBs from harmful development. In these areas it will be ensured that new developments make an appropriate contribution to their enhancement. Policies of the BLP, including LP70, LP71, and LP78 reinforce these policies at the local level.

9. Pin Mill is one of the best known and loved waterside settlements on the east coast. The hamlet nestles in a small bay, surrounded by unspoilt rural riverbanks of outstanding natural beauty and backed by dense woods. The long hard rises from the River Orwell, almost imperceptibly becoming the narrow village street which takes a winding course up the valley towards Chelmondiston. The listed 'Butt and Oyster' is the most prominent landmark, rising directly from the riverside and well known to generations of visitors by road and water. The character of Pin Mill and in particular its Conservation Area has been created by its informal organic growth and layout, the preponderance of simple unassuming Suffolk

vernacular architecture and the form of the older cottages. The characteristic boatyards around a green at the water's edge and village houses are seen against a background of the enclosing trees which make up the rural setting for the village.

10. The most characteristic and famous view of Pin Mill is that of the 'Butt and Oyster' as seen from the green or the sailing club to the west. The wide river, with picturesque boats and barges, forms its setting to the north, whilst to the south 'Riverside Cottage' and 'Seagulls', together with the small chandlery, form the visual link with the village street. Approaching the river from Chelmondiston to the south, the cottages and their raised front gardens form an essential part of the foreground to important views of the public house and the hard.

11. You drew attention to the fact that the appeal cottages are not listed buildings. Although they may have a certain literary significance, you consider that they are no more than a portion of a former public house, extensively remodelled in the 1950s. They and their gardens are therefore, in your opinion, of no special significance to the Conservation Area. I disagree. The cottages are pleasant in appearance, providing an excellent foil to the larger scale public house whilst their elevated siting and gardens continue the line of the valley side down to the river. Similarly their existing front gardens, consisting of simple sloping lawns above a 1.5m steep slope planted with informal rock plants, are in my opinion an important patch of green at the heart of village. It seems to me that as all the other former cottage front gardens in the group of buildings around the waterside have now disappeared under hardstanding, their survival maintains some of the historic character of the village. At the same time they provide a welcome visual relief from the otherwise unbroken hard surfaces which exist around the public house and in front of the two chandleries. Only further up Pin Mill Road, past the large garage and hardstanding at Ivy cottage, are green frontages once again reached. I therefore consider that these gardens are of great visual importance to the character of the waterside group of buildings within the Conservation Area.

12. I am also aware that the Council took the view that the appeal site was too far from the listed building to constitute part of its setting and did not advertise the development as such. In my opinion, however, the cottages form an integral and important part of the well known views of the 'Butt and Oyster' from the west. Following the discussion of this matter at the hearing, I do not agree with the Council's conclusion.

13. I appreciate that considerable care has been exercised in the detailed design of your clients' proposals and accept that they represent a substantial improvement over the earlier scheme refused in 1994. However, the inevitable consequence of the need to accommodate two cars at approximately road level would be the removal of a substantial part of the two gardens and the loss of the attractive sloping lawns. This, together with the permanent parking of cars within the curtilage, would fundamentally change the character of this important and prominent frontage. Notwithstanding the proposed planting, it seems to me that these last two surviving traditional cottage gardens would give way to a much more urban, formally designed and substantially engineered forecourt, centred around two parked cars and at odds with the existing informal character of their surroundings. This, together with the fact that two additional cars would be permanently parked in this sensitive area, already afflicted, except at high tides, with unsightly car parking would exacerbate the adverse impact of vehicles within the Conservation Area.

14. I thus consider that the appeal proposals, if implemented, would result in unacceptable material harm to the appearance of the waterside group of buildings, to views of 'The Butt and Oyster' when seen from the west and to the appearance of the riverside within the AONB. The proposed development would therefore be in conflict with SCSP and BLP policies intended to protect the character of Conservation Areas and AONBs from harmful development. In my opinion the setting of the 'Butt and Oyster' would not be preserved, whilst the character and appearance of the Pin Mill Conservation Area would be neither preserved nor enhanced. I consider that these constitute sound and clear-cut reasons for the refusal of planning permission.

15. You referred to some 12 properties along Pin Mill Road, where off-street parking areas had been created within the frontages. Some of these do not appear to have the benefit of planning permission and are visually harmful to the appearance of the village. You drew attention to the case of 'Ivy Cottage', where the Council had declined to pursue enforcement action against a visually damaging double garage and unauthorised hardstanding very close to the appeal site. In your opinion, the Council had not in these other instances showed the same degree of sensitivity to the character of the Conservation Area as in the case of your clients' application. I agree that there are a number of unfortunate and unsightly examples of off-street parking areas along Pin Mill Road. Whether or not they were the result of the grant of planning permissions, they are clearly harmful to the character of the Conservation area and, in the case of Ivy Cottage where the harm is severe, the Council's decision to discontinue enforcement action is most regrettable. Nevertheless, I cannot regard the existence of these unfortunate cases as justification for allowing another such development which would, in my opinion, cause further material harm to the character of the most important part of the Conservation Area. Although your clients' scheme may well be superior in detailed design to the other examples quoted, I consider that the principle of excavating the front gardens and making fundamental changes to their existing character is unacceptable in this particularly prominent location.

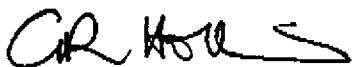
16. I am sympathetic to your clients' problems of car parking in the village and aware that Pin Mill has suffered from increasing pressure on the very limited amount of car parking for many years. I have also had regard to the needs of your elderly client who, although she does not have a car, would derive considerable benefits in terms of mobility if provision could be made for her to keep an electric carriage in the proposed parking bay in front of her house.

17. The Council's proposals for an area of dedicated residents car parking in the nearby public car park, resulting from a recent consultation exercise, are to be implemented in the foreseeable future. This scheme, in my opinion, goes a considerable way towards addressing the needs of residents such as your clients. Whilst I am aware of the fear regarding the possibility of vandalism, but this is a risk wherever vehicles are parked, I do not consider that the low picket fence, proposed as part of the appeal scheme, would provide a significant degree of security from passers-by intent on mischief. At the same time, I consider that a modest temporary housing for an electric wheelchair could be devised within the curtilage of the site which would not have the permanent adverse impact that I have identified in the case of the appeal scheme.

18. I have considered all the other matters raised in this appeal, including the substantial support expressed by other residents of Pin Mill, but nothing is of sufficient weight to affect my decision.

19. For the above reasons, and in exercise of the powers transferred to me, I hereby dismiss this appeal.

Yours faithfully



G R HOLLAND OBE BArch MCD MRTPI

Inspector



Planning Department,
Corks Lane, Hadleigh,
Ipswich. IP7 6SJ

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