

Appeal Decision

Site visit made on 1 April 2019

by David Fitzsimon MRTPI

an Inspector appointed by the Secretary of State

Decision date: 23 April 2019

Appeal Ref: APP/M2325/W/19/3219951

Bank House, 9 Dicconson Terrace, Lytham St Annes FY8 5JY

- 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 Olive Tree Brasserie against the decision of Fylde Council.
 - The application Ref 18/0576, dated 16 July 2018, was refused by notice dated 7 November 2018.
 - The development undertaken is the 'installation of a terrace structure, with a glass canopy roof and open sides'.
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Application for Costs

1. An application for costs was made by the Appellant Company against the Council which is the subject of a separate decision.

Decision

2. The appeal is dismissed.

Procedural Matters

3. A canopy structure was present at the time of my visit. According to the submitted plans, the proposal which is the subject of the appeal differs from this structure as its roof would be glass within a powder coated aluminium frame and the balustrade enclosure would be frameless glass. For the avoidance of doubt, I have considered the scheme on the basis of the submitted plans rather than the structure that is currently present.
4. The Application Form describes the proposal as the '*installation of a terrace structure, with horizontal roof with a concealed retractable fabric roof*'. However, the submitted plans show a glazed roof. The Appellant Company confirmed to the Council via e-mail dated 23 October 2018 that it was the glazed roof design that was to be formally considered and these are the plans referred to in the Council's Decision Notice. On this basis, I have taken the description from the Council's Decision Notice.

Main Issue

5. The application was refused for two reasons; the second of which related to an adjacent formally protected lime tree. The Council has advised that since the application was refused, a condition imposed on an earlier planning permission
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for a raised external terrace with balustrade (Ref. 18/0164) which related to the protected tree has been formally discharged. On this basis, the Council has withdrawn its second reason for refusal.

6. As a result, the main issue in this case is the effect of the proposal on the character and appearance of the host building and the Lytham Conservation Area (CA).

Reasons

Character and appearance

7. The appeal relates to an imposing Edwardian former bank building which enjoys a prominent position within the town square. The architectural and historic qualities of the building are recognised by a local listing and it makes a positive contribution to the CA within which it sits.
8. Planning permission has been granted for a terrace outside the appeal property enclosed by a frameless glass balustrade. The appeal proposal would be a more solid structure, with a powder coated aluminium framed canopy and lean-to predominantly glazed roof.
9. The proposed structure would dominate the front elevation of the building and would obstruct some of the architectural detailing at ground floor level, including the arched section of its attractive windows. This would be regrettable. Whilst the installation would not be irreversible, there is no suggestion that it would be a temporary structure and it would detract from the overall architectural quality of the building and its setting. This harm would be widely visible from the public domain given the prominent position of the appeal property within the town square. Whilst I do not have the details of the approved scheme, I find it highly likely that the appeal proposal would have a more harmful effect in such terms because it is a more substantial form of development.
10. This harm would be 'less than substantial' as directed by the Planning Practice Guidance, but I attach considerable importance and weight to the statutory duty imposed by section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 that special attention should be paid to the desirability of preserving or enhancing the character or appearance of a Conservation Area.
11. For the above reasons, I find that the proposal would harm the character and appearance of the host building and that of the CA. In such terms, it conflicts with policies GD7 and ENV5 of the adopted Fylde Local Plan (LP), which collectively seek to achieve high quality, responsive design and preserve heritage assets. It would also conflict with the advice contained within the Council's Supplementary Planning Document titled '*Canopies and Glazed Extensions on Commercial Forecourts – A Design Note*' (SPD). Whilst not referred to in the Council's Decision Notice, I understand the SPD was adopted before the application was refused and it is a material consideration in the determination of this appeal.

Other considerations

12. The National Planning Policy Framework explains 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. It goes on to say 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. The Appellant Company points to the fact that the structure has increased the capacity of the brasserie and provides an 'al fresco' dining experience, even in inclement weather. It also provides access for people with disabilities. Nevertheless, nothing I have seen or read convinces me that a more sympathetic scheme could not deliver similar benefits.
13. The Appellant Company points to the fact that the properties either side have similar enclosures. However, I note that a colleague Inspector found enclosures at these two properties to be objectionable when dealing with two enforcement cases (Refs. APP/M2325/C/18/3203663 and APP/M2325/C/18/3206089), which only reinforces the concerns I have outlined.

Overall Conclusion

14. I conclude that the proposal would harm the character and appearance of the host building and the CA within which it sits. In this respect, it conflicts with the development plan policies and design guidance referred to above. The arguments advanced by the Appellant Company in favour of the proposal do not outweigh this harm and policy conflict therefore the appeal does not succeed.

David Fitzsimon

INSPECTOR