

Appeal Decisions

Site visit made on 23 August 2016

by Richard McCoy BSc MSc DipTP MRTPI IHBC

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

Decision date: 7 September 2016

Appeal A Ref: APP/Z4310/W/16/3151330

2 Tower Gardens, Liverpool L3 1LG

- 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 Iain Hoskins against the decision of Liverpool City Council.
 - The application Ref 15F/2555, dated 7 October 2015, was refused by notice dated 15 December 2015.
 - The development proposed is a new canopy to replace existing canopy (with 4 no. new heaters to replace existing heaters).
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Appeal B Ref: APP/Z4310/Y/16/3153162

2 Tower Gardens, Liverpool L3 1LG

- 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 Iain Hoskins against the decision of Liverpool City Council.
 - The application Ref 15L/2556, dated 7 October 2015, was refused by notice dated 15 December 2015.
 - The works proposed are a new canopy to replace existing canopy (with 4 no. new heaters to replace existing heaters).
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Procedural matter

1. Although the application form refers to a single canopy, I note that the parties refer to 2 no. canopies. In addition, I observed that the development/works described above have already been carried out. I have dealt with these appeals on this basis.

Decision

2. I dismiss the appeals.

Main Issues

3. I consider the main issues to be the effect of the works on the special architectural and historic interest of the Grade II* listed Tower Building, the effect of the development on the setting of the Grade II listed St. Nicholas Church, railings and gate piers, and whether the development preserves or enhances the character or appearance of the Castle Street Conservation Area and the Liverpool Maritime Mercantile City World Heritage Site.
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Reasons

4. Planning permission (Appeal A) and listed building consent (Appeal B) are sought in respect of works/development that have already been carried out to a listed building. The works comprise 2 no. canopies and 4 no. heaters installed at a business premises known as Ma Boyles Public House, to the rear elevation of Tower Building, a Grade II* listed building. This designated heritage asset is an Edwardian office block that fronts on to Water Street, a principal street within the Castle Street Conservation Area and the commercial heart of the Liverpool Maritime Mercantile City World Heritage Site. The rear (Tower Gardens) elevation of the building forms a service area and is built of glazed bricks. Tower Gardens leads to the south gate of St Nicholas Churchyard. Both the church and the railings and gate piers are individually listed at Grade II.

Works/development to the listed building

5. The significance of a heritage asset is defined in the National Planning Policy Framework (NPPF) as its value to this and future generations because of its heritage interest. That interest may be archaeological, architectural, artistic or historic. Amongst other things, significance derives from a heritage asset's physical presence and may be harmed by development/works. When considering the impact of proposed development/works on the significance of a designated heritage asset, great weight attaches to the asset's conservation; the more important the asset, the greater that weight should be.
6. In considering whether to grant listed building consent for any works to a listed building and planning permission for development which affects a listed building the decision maker shall, under Sections 16(2) and 66(1) respectively of the Planning (Listed Buildings and Conservation Areas) Act 1990, have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses.
7. The rear elevation of Tower Building has a plain, utilitarian appearance. It is notable for its lack of adornment and absence of design elements to denote a formal entrance to a commercial activity. This architectural integrity is redolent of its informal service function and contrasts with the ornate, mercantile appearance of the building's principal elevation on Water Street. Consequently, this plain brick façade is of architectural and historic value and as such contributes to the significance of the listed building.
8. While I note the appellant's argument that this is a like-for-like replacement of broken, not fit-for-use canopies that had been attached to the rear of the building for the last 20 years, I note also the Council's uncontested evidence that they did not benefit from planning permission and listed building consent. In any event, in my judgement the new canopies detract from the listed building's special interest as a result of their strident colour and lettering. This gives them a visually dominant appearance within the street-scape which is at odds with the understated detailing of the building's rear elevation. This is not tempered by the fact that they are retractable, that the heaters sit at a low level or that a sandwich shop and a commercial office are to be found nearby.
9. The works, by introducing visual clutter to the lower level of this elevation, detract from its plain understated appearance and confuse its function as a rear service area to the host building. Accordingly, they fail to preserve the special

architectural and historic interest of the listed building and are harmful to the significance of the heritage asset, in conflict with saved Policy HD4 of the adopted Liverpool Unitary Development Plan (UDP). The degree of harm would be less than substantial as it would not lead to the total loss of the significance of the heritage asset or anything approaching that, and under paragraph 134 of the NPPF this requires to be weighed against any public benefits of the proposal, including securing the building's optimum viable use. I return to this matter below.

Setting of the listed buildings

10. The NPPF defines the setting of a heritage asset as the surroundings in which it is experienced. The extent is not fixed and may change as the asset and its surroundings evolve. Elements of a setting may make a positive or negative contribution to the significance of an asset; may affect the ability to appreciate that significance; or, may be neutral. Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 states that special regard should be paid to the desirability of preserving the settings of listed buildings, where those settings would be affected by proposed development.
11. Tower Gardens forms an attractive vista that frames the Grade II listed St. Nicholas Church and the Grade II listed railings and gate piers to the south of St. Nicholas Church. As such it forms a strong element of the setting of these designated heritage assets from which they derive part of their significance. The appeal site stands at the end of Tower Gardens close to the gate piers and there is a strong degree of inter-visibility between the canopies/heaters and the listed church and gate piers.
12. In my judgement, the development has introduced a degree of visual clutter into an area which is largely clear of such features. This diminishes the contribution the setting of the listed buildings makes to their significance, in conflict with saved UDP Policy HD5. With regard to the degree of harm, the Planning Practice Guidance (PPG) sets out that "substantial harm" is a high test and goes on to note that in terms of assessing proposals affecting listed buildings, the key question is whether the adverse impact seriously affects a key element of their special architectural and historic interest.
13. In this case, the significance of the listed buildings encompasses their historic, evidential and aesthetic values, the majority of which derives from their historic fabric which would be unaffected by the proposal. Consequently, I consider that the harm arising to the significance of the heritage assets would be less than substantial. Under paragraph 134 of the NPPF this harm requires to be weighed against any public benefits of the proposal, a matter to which I return below.

Castle Street Conservation Area and the World Heritage Site

14. The Castle Street Conservation Area encompasses the historic heart of the city. It is made up of the 7 streets of the castle borough established in the 13th century. The Conservation Area reflects the growth of Liverpool from a Lancashire town to a city of international importance as a world leader in mercantile trade. It is characterised by the grandiose offices and warehouses of major commercial maritime-related enterprises, dating in particular from the late 19th and early 20th centuries.

15. The canopies and heaters are not characteristic of the rear alleys of the Castle Street Conservation Area. Within this context they have an incongruous appearance, to the detriment of visual amenity of the street-scape. Accordingly, the development fails to preserve or enhance the character or appearance of the Conservation Area and the UNESCO World Heritage Site, in conflict with saved UDP Policy HD11, the guidance in the Council's Supplementary Planning Document *Liverpool Maritime Mercantile City World Heritage Site* adopted in October 2009 following a period of public consultation and NPPF paragraph 137.

Benefits

16. The appellant argued that the works/development form an inviting intervention that links the existing alleyway (Tower Gardens) to the adjacent St. Nicholas Church. The appellant pointed out that the listed gate piers and railings are still of a prominent nature and the frame is clearly visible. Nevertheless, the public benefits from this are minor with most of the benefit accruing to private commercial interests. Moreover, it has not been demonstrated that the works/development are necessary to secure the optimum viable use of the heritage asset. Accordingly, I attach limited weight to these benefits.

NPPF paragraph 134 balance

17. The works/development have resulted in less than substantial harm to the significance of a heritage asset as they are detrimental to its special architectural and historic. They have also resulted in less than substantial harm to the significance of nearby heritage assets as a development within their setting and fail to preserve or enhance the character or appearance of the Conservation Area and the UNESCO World Heritage Site.
18. Consequently, giving considerable weight to the desirability of preserving the buildings or their settings or any features of special architectural or historic interest which they possess, in line with Sections 16(2) and 66(1), and the desirability of preserving or enhancing the character or appearance of the Conservation Area under Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990, I consider that the claimed public benefits would not outweigh the harm and the proposal would be contrary to saved UDP Policies HD4, HD5 and HD11, and NPPF paragraphs 134 and 137.

Conclusion

19. For the reasons given above, I conclude that the appeals should be dismissed.

Richard McCoy

INSPECTOR