
Appeal Decision

Site visit made on 4 July 2016

by C Sherratt DipURP MRTPI

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

Decision date: 10 October 2016

Appeal Ref: APP/N4205/C/16/3144332

Land at Former Cross Guns Public House, 272 Deane Road, Bolton, BL3 5HP

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991.
 - The appeal is made by Mrs I Majeed against an enforcement notice issued by Bolton Metropolitan Borough Council.
 - The enforcement notice was issued on 8 January 2016.
 - The breach of planning control as alleged in the notice is without planning permission, the installation of shop fronts, external roller shutters and timber decked steps.
 - The requirements of the notice are to:
 - i) Permanently remove the unauthorised shop fronts;
 - ii) Permanently remove the roller shutters together with their associated housing boxes and all fixtures and fittings from the front and side elevations (as shown for identification purposes in the photographs marked "A" and "B" attached to this notice);
 - iii) Permanently remove the timber decked steps (as shown for identification purposes in the photograph marked "C" attached to this notice).
 - iv) Remove from the land all debris and building materials resulting from compliance with requirements i, ii and iii above.
 - The period for compliance with the requirements is 45 days.
 - The appeal is proceeding on the grounds set out in section 174(2)(a), (f) and (g) of the Town and Country Planning Act 1990 as amended.
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Preliminary Matters

1. Planning permission was granted for the change of use of the premises from a pub / residential accommodation to A3/A1 uses on ground floor and three self-contained flats in 2014. This permission included some external alterations and an extension in 2014. Planning permission was subsequently granted for the change in use of one unit (A1) to restaurant / café (A3) in 2016. The external alterations materially depart from the external alterations approved. The requirements of the notice simply require the shopfronts to be removed with no requirement for their replacement. This does not make the notice a nullity or invalid, although the Council's expectation is that the shopfronts will be replaced to accord with the planning permissions referred to. However the notice is not explicitly worded in those terms although I am not aware that planning permission exists for any alternative scheme. Nevertheless, to add this to the requirements would make the notice more onerous and cause injustice. I shall determine the appeal on the basis of the notice as drafted.
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Decision

2. The appeal is dismissed and the enforcement notice is upheld. Planning permission is refused on the application deemed to have been made under section 177(5) of the 1990 Act as amended.

Main Issue

3. The main issue is the effect of the development on the character and appearance of the host building and surrounding area.

Reasons

Ground (a)

4. The appeal site is situated at the western edge of the Deane Road local shopping centre, within a mixed use area. The appellant points out that there was no condition relating to steps, roller shutter boxes and roller shutters imposed on the planning permission. However, this is not surprising as none were proposed as part of the proposal and so no planning permission was granted for any of these. The lack of a condition does not authorise the development that has occurred without the benefit of planning permission. In any event, the external alterations as carried out are materially different to those authorised by the permission.
5. The glazed shopfronts and incorporated entrance doors that are the subject of the notice are full length, appear contemporary in design, and of an overall size that fails to reflect the traditional appearance and architectural composition of the host building or surrounding area. The approved scheme included stall risers and other traditional shopfront features and separate doors together with window openings proportionate in scale having regard to both the existing building and nearby retail units. I agree with the Council that the unauthorised alterations are at odds with the original design and fenestration of the building, appearing incongruous in the street scene. Accordingly the alterations are of a poor design, contrary to Policy CG3 of the Bolton Core Strategy that requires developments to be of high quality design and support an attractive external environment.
6. The roller shutters are externally mounted. I was able to see them both open and shut during my site visit. They are solid in appearance which results in a rather dead and unattractive appearance when shut. Due to the lack of stall risers to the front elevation, by necessity they are full length further exacerbating the hostile appearance they portray. Bolton Council's Supplementary Planning Document "General Design Principles" advises that internal grilles are the Council's preferred type of roller shutter design. However, I saw many examples of other externally mounted roller shutters along Deane Road although some of those that I saw shut, were perforated in design rather than solid.
7. The externally mounted boxes to the side elevation appear at odds with the more domestic appearance and scale of the fenestration on that elevation, resulting in a particularly hostile appearance. Notwithstanding other examples of externally mounted shutters, the roller shutters referred to in the enforcement notice fail to respect the architectural proportions of the original building and given the solid appearance unacceptably detract from the character and appearance of both the host building and streetscene.

8. The timber decked step referred to in the notice is a contemporary feature out of keeping with the character of the building.
9. To conclude, the alterations fail to have regard to the traditional design of the existing building and are at odds with the original design and fenestration of it thereby resulting in unacceptable harm contrary to policies CG3 and RA1 of Bolton's Core Strategy and Bolton's General Design Principles Supplementary Planning Document all of which promote good design. The appeal on ground (a) fails.

Ground (f)

10. The appellant considers the original decision notice was not clear in terms of the shopfront detailing approved. The plans that accompanied the applications appear to clearly depict the external alterations proposed and therefore subsequently granted planning permission. I find no ambiguity in the plans that would suggest the requirements of the notice are excessive. The appeal on ground (f) fails.

Ground (g)

11. The period for compliance only relates to the requirements of the notice i.e. the removal of the unauthorised developments. No evidence is provided to demonstrate that a period of 45 days is not a reasonable period to enable the appellant to remove these. The works listed in the requirements are not extensive. The appeal on ground (g) fails.

Conclusion

12. For the reasons given above I conclude that the appeal should not succeed. I shall uphold the enforcement notice and refuse to grant planning permission on the deemed application.

Claire Sherratt
INSPECTOR