

Appeal Decision

Site visit made on 15 October 2016

by Anthony J Wharton BArch RIBA RIAS MRTPI

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

Decision date: 25 October 2016

Appeal Ref: APP/M3455/F/16/3150750

Building known as Top Bridge Works or the former Price and Kensington Tea Pot Works, Newcastle Street, Burslem, Stoke ST6 3RP

- The appeal is made under section 39 of the Planning (Listed Buildings and Conservation Areas) Act 1990 as amended by the Planning and Compensation Act 1991.
 - The appeal is made by The Manager Deluxe Car Wash and Valeting against a listed building enforcement notice (LBEN) issued by Stoke on Trent City Council.
 - The enforcement notice, numbered ENF/15/147, 16 May 2016..
 - The contravention of listed building control alleged in the notice is: The unauthorised erection of a steel framed valeting canopy (hereafter referred to as 'the Canopy'); part of the canopy has been attached to the front elevation of the building. The said canopy is shown edged blue on the attached plan.
 - The requirements of the notice are:
 1. Remove from the land the unauthorised steel frame Canopy in its entirety.
 2. Make good any damage caused to the Building and the land as a result of compliance with requirement 1 above.
 - The period for compliance with the requirements is 3 months.
 - The appeal is made on ground (e) only as set out in section 39(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 as amended.
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Decision

1. The appeal is dismissed. See formal decision.

Background information and matters of clarification

2. The appeal building was listed in Grade II* on 20 August 1979 and was formerly a pottery works. It dates back to the early 19th Century although there are numerous later additions. The main range of the 2 storey, 11 bay brick complex is still recognisable from its list description. There is a large bottle kiln and other workshops which line the adjacent canal. The buildings are currently vacant except for a small retail premises.

3. The steel framed canopy measures 7m x 7m and is 2.5m in height. It is constructed of steel posts and there is corrugated sheeting to form the roof. The inner steel posts are fixed to the brickwork of the building. The site is currently a car park which is accessed off Newcastle Street and there is a dwarf wall and railings which form the boundary. The car wash facility takes place within the car park area and the shop has a separate car park. Although the site does not lie within a conservation area, the boundaries of the Newcastle Street Conservation Area (NSCA) and the Trent and Mersey Canal Conservation Area (TMCCA) are both in close proximity to the site.

4. There is a detailed planning history set out in the Council's delegated report and there is no need to repeat it here. The most relevant applications relate to refusals of Listed Building Consent (LBC) and Planning Permission (PP) – retrospective - for the 7.0m x 7.0m steel framed canopy which is now the subject of the notice. The

use of the site as a car wash has been granted a further temporary permission until 31 March 2018.

6. The relevant development plan policies are CSP1 (Design Quality) and CSP2 (Historic Environment) of the Newcastle-under-Lyme (NL) and Stoke-on-Trent (ST) Core Spatial Strategy 2006 -2026 (CSS). The NL and ST Urban Design Guidance SPD is also a material consideration as is the National Planning Policy Framework (NPPF). I have particularly had regard to sections 7 (Requiring good design and 12 (Conserving and enhancing the historic environment) of the NPPF. I have also taken into account the relevant sections of Planning Practice Guidance (PPG). Because the building is listed in Grade II*, I have had special regard to the requirements of section 16(2) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (PLBCAA).

Main Issues

7. The main issues are the effect of the canopy on the character of the listed building, on its setting and on its special architectural and historic features.

8. In support of the retention of the canopy it is stated that, like the car wash use of the land is temporary in nature and therefore will be removed once the car wash ceases to operate. It is also stated that the canopy is only bolted to the building in several places and that once it is removed no damage will be caused. It is acknowledged to be an incongruous addition to the building but that its appearance is no worse than what occupiers of the adjacent premises building have done in leaving second hand goods outside ready for sale.

9. Having viewed the canopy from both near and distant viewpoints I share the Council's concerns about its effect on this fine heritage asset. The canopy is prominently positioned on the front of the building and I agree with the appellant that it is indeed incongruous. Due to its crude construction, materials and detailing it detracts markedly from the front elevation of the building. As well as being most detrimental to its character the manner of fixing and its positioning result in an alien and obtrusive addition to this part of the listed building.

10. I consider that the overall setting of the building has been harmed by the positioning of the canopy, as well as some of its architectural and historic features such as the brickwork and the window openings. The Council refused retrospective PP and LBC for its retention and I see no justification in allowing something at appeal stage that is so clearly contrary to policies CSP1 and CSP2 of the CSS and the policies within the NPPF (in sections 7 and 12). Although the harm could be said to be less than substantial (see paragraph 134 of the NPPF) the canopy does not promote any public benefits which are sufficient to outweigh the harm caused.

11. For the above reasons, therefore, the appeal is dismissed on ground (e). There are no other matters raised by the appellant or the Council that would lead to me altering my conclusions on the main issue. Nor is any other factor of such significance so as to change my formal decision which is set out below.

Formal Decision

12. The appeal is dismissed; the listed building enforcement notice is upheld and listed building consent is refused for the works carried out in contravention of section 9 of the Planning (Listed Buildings and Conservation Areas) Act 1990.

Anthony J Wharton

Inspector