

Appeal Decision

Site visit made on 28 November 2016

by Anthony J Wharton BArch RIBA RIAS MRTPI

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

Decision date: 7 December 2016

Appeal Ref: APP/W4705/C/16/3150819

Land adjacent to 90 Sunbridge Road, Bradford BD1 2AQ

- 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 Focus Inns Ltd against an enforcement notice issued by the City of Bradford Metropolitan District Council.
 - The enforcement notice was issued on 7 April 2016.
 - The breach of planning control as alleged in the notice is: the erection of a timber canopy affixed to the west facing side elevation of the adjacent building and a timber hut adjacent to the north facing boundary of the land.
 - The requirement of the notice is to demolish the unauthorised timber structures and remove all materials from the land resulting from such demolition.
 - The period for compliance with the requirements is two calendar months.
 - The appeal is proceeding on ground (f) only, as set out in section 174(2) of the Town and Country Planning Act 1990 as amended. Since the prescribed fees have not been paid within the specified period, the application for planning permission deemed to have been made under section 177(5) of the Act as amended does not fall to be considered.
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Decision

1. The appeal is dismissed and the enforcement notice is upheld as drafted.

Background information and relevant policy

2. The appeal land is located at the corner of Sunbridge Road and Barry Street and lies within the City Centre Conservation Area (CCCA). No 90 Sunbridge Road is a public house in the ownership of the appellant company with a tenant operator. The appellant, as landlord, indicates that the tenant was not granted their approval to erect the two structures. The tenant had informed the appellant that negotiations were in hand with the Council regarding the two unauthorised structures. However, there are no details before me with regard to these negotiations. The first structure is a large shed positioned on the northern part of the land and the other is a smaller open-sided canopy which is fixed to the structure of the public house.

3. On 27 June 2016 the Council confirmed that no notification letters were sent out, the reason being that the site lies within the city centre and that there are no affected neighbours. Clearly the appellant was aware of the case and was able to appeal. In the overall circumstances I am satisfied that the failure to issue a notification letter did not cause any injustice.

4. The Council refers to policies within its adopted replacement Unitary Development Plan (UDP). These are BH7 (Development in conservation areas); D1 (relating to the requirement for high quality design); UR3 (effect on surrounding environment and UDP3 (sustainable design and conservation of heritage assets). However, because the relevant fee has not been paid on time, I cannot take into

account the merits of the structures as erected. I am only empowered to consider the ground (f) appeal. To which I now turn.

The appeal on ground (f)

5. To be successful on this ground it must be conclusively shown by an appellant that the steps as required by the notice are excessive and that lesser steps would remedy the breach or, as the case may be, would remedy any injury to amenity which has been caused by any such breach.

6. In support of the appellant's case it is contended that the structures are not harmful to visual amenity. It is argued that the area is generally 'run-down' and that the company has made a considerable investment in the property. It is considered that the requirements of the notice are out of proportion with regard to the works as carried out.

7. However, lesser steps have not been put forward and the Council has clearly set out its reasons for issuing the notice. The requirements would remedy the breach in that the structures would be removed and would cease to have a detrimental effect on the character and appearance of the CCCA. Although the merits of the case are not before me I have paid special attention to the requirements of section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990. Having inspected the site and the surrounding area I do not consider that the requirements of the notice are excessive and the appeal fails on ground (f).

Other Matters

8. In reaching my decision I have taken into account all of the other matters raised by the Council and the appellant. However, none of these carries sufficient weight to alter my conclusions or to change my decision that the appeal should fail.

9. I have noted the situation regarding the non-payment of the fee, whereby the deemed application could not be considered. In particular I note that the cheque sent to the Council was only one day late. However, for the avoidance of doubt, even if the payment had been on time, having seen the structures as built in this part of the CCCA, I do not consider that planning permission for their retention would have been granted.

Anthony J Wharton

Inspector