
Appeal Decision

Site visit made on 17 March 2017

by S J Papworth DipArch(Glos) RIBA

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

Decision date: 31 March 2017

Appeal Ref: APP/U1430/Y/16/3163423

8 Market Street, Rye TN31 7LA

- 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 Concepts against the decision of Rother District Council.
 - The application Ref RR/2016/1092/L, dated 19 April 2016, was refused by notice dated 15 June 2016.
 - The works proposed are installation of Dutch blinds to market Street elevation and Lion Street elevation.
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Decision

1. I dismiss the appeal.

Reasons

2. The building is listed Grade II and sits within the Rye Conservation Area. The main issue in this appeal is the effect of the proposal on the architectural and historic significance of the building and its setting.
 3. Section 16(2) of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires special regard to be had to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses. Section 72(1) of the same Act requires special attention to be paid to the desirability of preserving or enhancing the character or appearance of the conservation area.
 4. Paragraph 132 of the National Planning Policy Framework states 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. The more important the asset, the greater the weight should be. The courts have determined that considerable importance and weight should be given to harm found to the significance of listed buildings.
 5. Whilst the primacy of the Development Plan set by Section 38(6) of the Planning and Compulsory Purchase Act 2004 does not apply to applications and appeals for listed building consent, the various requirements in statute and central Government guidance are reflected in the stated policies of the Rother Local Plan Core Strategy. Policy OSS4(iii) requires development to respect and not detract from the character and appearance of the locality; Policy RY1(iii) is specific to Rye and Rye Harbour and looks to preserve and enhance the character and historic environment of the Citadel and wider conservation area, and the distinctive landscape setting of the town; and Policy EN2 (i and iii) requires development affecting the historic environment to reinforce the special
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- character of the historic settlements, and preserve locally distinctive vernacular building forms and their setting.
6. The proposal is to place Dutch blinds in four sections on this corner location. Two would be either side of the entrance door facing almost south, one would be on the angled corner window, facing about south-west, and the fourth would be over the west facing window to Lion Street.
 7. The appellant has supplied a photograph of the shop when in use as Hide Brothers Department Store, with blinds having a curved outer part similar to what is now proposed. The photograph is undated, but the store is stated to have ceased trading in 1985 although the cars appear from the 1960s. It is noted first that the blinds appear to have a flat top and to retract into a blind box, and secondly that the blinds appear to have been fitted to only the south elevation. It is noted that the present houses to the east were shops and had traditional awning blinds. The premises were listed in 1972, so it is not possible to be certain whether the blinds were in place at that time. The modern shopfront referred to in the listing description could be a description of that shown in the photograph, which is similar to the layout of that which is in place now.
 8. Due to the corner location, the shop is in a prominent position, and that is enhanced by the architectural interest of the Town Hall opposite and the townscape composition of Market Street and the continuation of Lion Street to the church door, the church having a distinctive clock with figures over. The open space in front of the buildings used as a cinema to the west extends the openness of Market Street.
 9. The blinds would introduce a fragmented and fussy element to the building and hence to the wider street-scene. Being split into four sections and with the gaps at the corners, the installation would appear an unattractive feature detracting from the clean lines of the building as it turns the corner and intruding into the open space of the Market Street and Lion Street junction. The installation would, in addition, erode the architectural interest of other listed buildings and hence that of the conservation area. It is possible that the detrimental effect would remain when retracted, although whether this is a risk is not made clear in the drawings.
 10. The appellant refers to two other installations nearby and provides photographs of them. That just down Lion Street at Golden Fleece was visible only in the closed position at the time of the site inspection as scaffolding did not allow their use. This however shows that harm could remain at the appeal premises when retracted. The other shop, Penny Royal, was identified but had been re-painted and no blinds were visible, with the box cover appearing to have been painted over. In any event, there are clear differences between the appeal site location and those other shops, due to the corner siting and the more prominent setting of Concepts.
 11. The proposal would cause harm to the architectural interest of the listed building and to the character and appearance of the conservation area. The level of harm is 'less than substantial', a differentiation required between paragraphs 133 and 134 of the Framework. In this case the latter applies and this states that this harm should be weighed against the public benefits of the proposal, including securing its optimum viable use.

12. The main justification put forward is the damage occurring to stock displayed in the windows through sunlight and clearly part of the viable use of a shop is through attracting custom and informing them of the goods on offer. It appears that film attached to the glass did not solve the problem, and in any event could, if highly tinted, detract in itself from the interest of the listed building. Traditional shop awning blinds are stated to be inappropriate due to the need to brace them to the mullions, and the view that these joinery items are not strong enough; certainly they appeared slim, but deep.
13. There is no mention of the possibility of using cranked arms parallel to the fabric rather than braced to the mullion rails. It is also of note that a traditional awning on High Street uses the pilaster at either end but in the middle the awning is braced to a rail that spans from cill to head with no pressure on the mullion. It would be for the Council to determine whether such a solution to the appellant's problem would be acceptable, but the evidence is not conclusive as to the lack of alternatives. Furthermore, whilst it is likely that the high summer sun would be shielded by the south facing blinds, the south-west and south facing ones would be less effective, but would cause harm through their visibility along the street.
14. It is in the public interest to have attractive and viable shops in the centre of towns, but so too is the upkeep and attractive presentation of listed buildings and the conservation area. In the balance required by paragraph 134 the justification fails to outweigh the harm. The proposal would not accord with Core Strategy Policies OSS4(iii), RY1(iii) and EN2 (i and iii) or guidance in the Framework, and would fail the statutory tests in sections 16(2) and 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990. For the reasons given above it is concluded that the appeal should be dismissed.

S J Papworth

INSPECTOR