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# Appeal Decision

Site visit made on 6 June 2017

**by I Jenkins BSc CEng MICE MCIWEM**

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

**Decision date: 27 June 2017**

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**Appeal Ref: APP/X4725/W/17/3167942**

**Bar Biccari, 2 Highfield Road, Horbury, West Yorkshire, WF4 5LU**

- 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 David Rayner against the decision of City of Wakefield Metropolitan District Council.
  - The application Ref 15/01506/FUL, dated 18 June 2015, was refused by notice dated 1 November 2016.
  - The appeal development is described as first floor restaurant area, open and partially enclosed, with glass block screen to Highfield Road frontage.
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## Decision

1. The appeal is dismissed.

## Procedural matters

2. The development for which planning permission is sought in this case has commenced and so the planning application subject of this appeal is retrospective.

## Main Issue

3. I consider that the main issue in this case is the effect of the appeal scheme on the character and appearance of No. 2 and the Conservation Area.

## Reasons

4. The appeal property occupies a prominent corner site at the junction of Highfield Road with the B6128 High Street/Westfield Road. It is located within the Town Centre and an associated Conservation Area, which to my mind, local to the appeal site, owes much of its traditional character, appearance and significance as a designated heritage asset to a small number of prominently located, well detailed, brick/stone built buildings.
  5. Section 72(1) of the *Planning (Listed Buildings and Conservation Areas) Act 1990* requires, in exercise of planning functions, that *special attention shall be paid to the desirability of preserving or enhancing the character or appearance of a Conservation Area*.
  6. Features of the 2-storey eastern, front elevation of the appeal building include: a main wall comprising red brick with an ashlar band at ground and another at eaves level topped by stone cornice and a hipped roof; a stone pilaster at each
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front corner topped by a capital; a symmetrical arrangement of window openings with stone surrounds; and, a centrally positioned stone, domed tower, which projects from the main front wall and rises above the level of the top of the main roof. A single-storey brick sidewall with stone detailing, which forms part of the appeal property, links the southeastern corner of the front elevation of the building to a neighbouring 2-storey building that fronts onto Highfield Road and is situated outside of the Conservation Area. The materials and detailing of the single-storey sidewall are in keeping with the 2-storey element of the appeal property, giving those parts of the building a complimentary appearance.

7. The appeal building is not 'Listed', it is not included in the Council's list of buildings of interest and I understand that the Council has not produced a Conservation Area appraisal or management plan. Nevertheless, I consider that, as a result of the combination of the detailed, attractive frontage of the building and the complimentary materials used to form the single-storey sidewall, the property makes a notable positive contribution to the character and appearance of the Conservation Area and thereby its significance.
8. The appeal scheme includes a glass block screen, around 1.4 metres high, which has been erected along the top of the single-storey sidewall facing Highfield Road. In addition, behind the screen there is an open first floor area in use for outdoor seating, which is accessed from the main building through a glazed covered area. These are elements of the appeal scheme that are in place. The scheme for which planning permission is sought in this case would also include the replacement of the northeastern end of the glass block screen with a curved section, so that it no longer abuts and partially obscures the pilaster at the southeastern corner of the main building. In addition the outside of the glass block screen would be clad with obscured glass panels.
9. In stark contrast with the brick wall below, which has a refined appearance due to the relatively narrow coursing of the brickwork, the taller glass blocks give the existing screen a particularly clumsy appearance, which would be hidden by the proposed obscured glass panels. However, in common with the existing glass blocks, the proposed long and tall glass panel screen prominently positioned on top of the sidewall would also have an alien and obtrusive appearance, which would detract significantly from the character and appearance of the appeal property and the contribution it would otherwise make to the Conservation Area. The adverse impact would be particularly marked when the property is seen from public vantage points to the east, from where the attractive frontage of the building would be seen together with the incongruous glass screen.
10. I conclude that the appeal scheme would cause significant harm to the character and appearance of the appeal property and the Conservation Area. In this respect the appeal scheme conflicts with the aims of Policy CS10 of the *Wakefield Core Strategy, 2009* (CS) and Policies D9 and D18 of the *Wakefield Development Policies Document, 2009* (DPD), which insofar as they give encouragement to high quality design and the promotion or reinforcement of local distinctiveness, are consistent with the aims of the *National Planning Policy Framework* (the Framework). I consider that the harm to the significance of the Conservation Area would be less than substantial, due to the relatively limited scope of the works. In these circumstances the Framework

indicates that the harm to the significance of the designated heritage asset should be weighed against the public benefits of the scheme.

*Other matters*

11. The Council has previously granted planning permission Ref. 12/01702/FUL for development described as '*creation of first floor external seating area, first floor canopy, obscure glazed glass screen*' at the appeal site. However, I understand that it was materially different from the proposal before me, not least as the edge of the seating area was set well back from the alignment of the single-storey sidewall along Highfield Road. This permission affords little weight to the appeal scheme.
12. The appeal premises is in use as a restaurant and the appeal scheme involves a limited extension to the bar space and seating space available to customers. There is no dispute that this increase in capacity would be likely to contribute to the local economy, albeit to a limited extent. In this respect it would gain some support from CS Policy CS8 and the Framework, which seek to support the economy, and I attach moderate weight to that benefit. However, I give little weight to the appellant's assertion, as it is unsupported by any compelling evidence, that the financial viability of the existing business is marginal and its future may be threatened if the appeal is unsuccessful.
13. I acknowledge that the existing glass block screen is sufficiently tall to restrict views from the outdoor seating area of the windows of No. 1 Highfield Road, which is a dwelling situated opposite the appeal site on the other side of Highfield Road. However, even if that were not the case, I consider that the intervening distance would be likely to satisfactorily safeguard the privacy of the residents of that property. Therefore, I give little weight to the benefit of the existing/proposed glass screen as regards privacy.
14. The appellant has indicated that the screen limits the potential for noise pollution arising from within the site. In my judgement, conditions limiting the hours of use of the outside seating area and prohibiting the use of sound amplification/tannoy systems and musical instruments, as imposed on planning permission Ref. 12/01702/FUL, would be likely to provide greater certainty that the living conditions of neighbouring residents would be satisfactorily safeguarded from noise arising from the premises. Therefore, I give little weight to the benefit of the existing/proposed glass screen as regards controlling noise and disturbance.
15. I understand that objections to the appeal scheme have not been raised by anyone other than the Council. Nonetheless, in my view, a lack of objections from others, such as neighbouring residents, cannot be automatically interpreted as a sign of support, as their propensity to object can be influenced by a number of factors. Therefore, I give little weight to the absence of objections from others.

*Conclusions*

16. In my judgement, any benefits of the appeal scheme would not outweigh the harm that I have identified. I understand that the Council has indicated that it may be possible to reduce the visual impact of the proposed screen to an acceptable level, by setting it further back from the highway. However, that is not an option supported by the appellant, who argues that it would negate the

benefits of the scheme. Under these circumstances, I consider that the imposition of a condition requiring such a change would not meet the test of reasonableness.

17. I conclude on balance, that the appeal scheme would not amount to sustainable development under the terms of the Framework and it would conflict with the Development Plan taken as a whole. For the reasons given above, I conclude that the appeal should be dismissed.

*I Jenkins*

INSPECTOR