



Appeal Decision

Site visit made on 23 October 2017

by Caroline Mulloy BSc (Hons) DipTP MRTPI

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

Decision date: 9th November 2017

Appeal Ref: APP/V2004/W/17/3180047

Warehouse 6, Princes Dock Street, Kingston upon Hull HU1 2LP

- 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 Azzuri Group against the decision of Kingston-upon-Hull City Council.
 - The application Ref 17/00420/FULL, dated 28 March 2017, was refused by notice dated 14 June 2017.
 - The development proposed is use of highway forecourt for alfresco dining in two areas with a combined placement of 32 tables, 76 chairs and 1 timber pergola bounded by branded timber planters in association with the adjacent restaurant.
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Decision

1. The appeal is dismissed.

Main Issue

2. The main issue in this case is the effect of the proposal on the setting of the Grade II listed building 'Warehouse 6', the Grade II listed Princes Dock and the character and appearance of the Old Town Conservation Area and the area generally.

Reasons

3. The appeal site comprises of two areas situated to the north of a restaurant and office building on the corner of Princes Dock Street and Castle Street.
4. The Old Town (Western and Northern Part) Conservation Area Character Appraisal (CACA) (2004) identifies that Prince's Dock Side has a maritime air due to the waterside location with views over the old dock, the retention of the old ashlar dock walls and cast-iron mooring posts and distant views to the marina, Humber and Hull Maritime museum.
5. The Prince's Dock Side features the line of the medieval town wall, a postern and three of the four interval towers which originally stood between the Beverly Gate and the Myton Gate, delineated in the block paving. Although a number of historic buildings have been lost at the southern end of the street, sufficient survive to maintain the character and feel of a late Georgian/early Victorian dock side street. The CACA goes on to say that the zone partly has the character of a modern recreational waterfront and partly a 19th Century dock side street.

6. Warehouse 6 is a Grade II listed building located within the Old Town Conservation Area. The listing description for the building identifies that it dates from the mid-19th century and comprises of brick with stone cills and hipped slate roofs. Windows are mainly cast-iron glazing bar casements with slight segmental heads. The building also has elliptical-arched loft doors and a carriage entrance. The building is a typical warehouse building of the era and, therefore, holds historic significance. Furthermore, it occupies a highly prominent position visually enclosing the south west corner of the Quayside and thus contributes significantly to the character and appearance of the Conservation Area.
7. The principal of the outdoor seating area and the planters appear to have been established under previous planning applications¹ approved in 2011 and 2015. The current proposal would result in a reduction in the size of the seating area immediately adjacent to Warehouse 6 which would be approximately 2.2m wide and a new detached larger area would be utilised on the south east side of Prince's Dock which would measure 6.7m wide by 16.25m long and would be situated within a bollarded area. The Quay area would have a mild steel framed pergola bounded by timber planters in association with the adjacent restaurant.
8. The proposal would reduce the area of seating immediately adjacent to the listed building which I acknowledge would result in a minor improvement to the immediate setting of the building. However, the design and materials of the pergola to be situated in the detached area would be reminiscent of that found in domestic gardens. The suburban nature of the proposal would be in stark contrast to the sturdy, black cast iron mooring posts and predominately black street furniture found in the vicinity.
9. The domestic, suburban nature of the pergola would also be at odds with the warehouse character of the listed building and the maritime nature of the listed docks. The pergola would be around 2m high and particularly if hung with plants; would interrupt views of Warehouse 6 from along the Quayside. It would, therefore, compete visually with the listed building, harm its setting and detract from its significance.
10. Furthermore, the proposal would increase visual clutter and the domestic nature of the pergola would be at odds with the maritime nature of the docks and the late Georgian/early Victorian dock side street which characterises the Conservation Area. The proposal would, therefore, harm the character and appearance of the Conservation Area. I have considered whether a condition requiring the pergola to be painted black would mitigate the harm; however, this would not address the domestic, garden like appearance of the structure.
11. I note that the previous approval included large umbrellas which would have been taller than the proposed pergola and have a significant circumference. However, whilst the umbrellas would have been fixed they would, nevertheless, be capable of being folded up when not in use. In contrast the proposed pergola would become a permanent and rigid feature.
12. Attention is drawn to the other outdoor seating areas at the entrance to the Prince's Quay Shopping Centre. These are surrounded by metal framed, clear

¹ Planning application references: 16/00332/COU; 11/00737/FUL

glazed structures and were approved by the Council in 2010². However, whilst I acknowledge that the structures add a degree of clutter, I note that the permission appears to be temporary. Furthermore, the structures are seen in the context of the shopping centre which has a modern design comprised of a significant amount of metal and glazing. The materials are, therefore, broadly consistent with those of the shopping centre. These cases are not, therefore, directly comparable to the appeal proposal which limits the weight which I can attach to them in my Decision. In any event, their presence does not justify the harm which I have identified.

13. Paragraph 134 of the National Planning Policy Framework (the Framework) confirms that where a development proposal would lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal, including securing its optimal viable use.
14. The appellant acknowledges at paragraph 3.15 of his submissions that the proposal would lead to less than substantial harm to the significance of nearby designated heritage assets and that the level of harm should be weighed against public benefits. Whilst there would be some limited improvement to the immediate setting of the listed building, on balance, I consider that this would be outweighed by the harm arising from the pergola to the wider setting of the listed building, listed docks and also the harm to the character and appearance of the Conservation Area.
15. The appellant considers that the proposal would provide shelter to customers and also add colour and animation to the southern end of Princes Dock. However, visitors to the restaurant would be exposed to the elements above the planters and timber frame due to the open nature of the pergola and it would, therefore, have limited benefits. I am not, therefore, persuaded that the pergola element of the design would attract more customers or visitors to the Quayside. In any event, I consider that these objectives could be achieved by other means.
16. Furthermore, there is no evidence before me that the pergola is necessary to keep the building in active use and in any event this can be achieved by other means. Consequently, whilst the harm would be less than substantial, I am not persuaded that the public benefits of the proposal would outweigh the harm which I have identified.
17. For the reasons stated, I conclude that the proposal would harm the setting of the Grade II listed Warehouse 6 and the Grade II listed Princes Dock. It would also fail to preserve or enhance the character and appearance of the Old Town Conservation Area and the area generally. It would, therefore, conflict with the statutory duty as set out in the Planning (Listed Buildings and Conservation Areas) Act 1990 which must be given considerable importance and weight.
18. Conflict would also arise with Policies ENV6 and SPF 5 of the Joint Structure Plan (2005), and Policies BE18, BE19 and BE28 of the Hull City Plan (2000) which, amongst other things, collectively seek to ensure a high standard of design which has special regard to the preservation or enhancement of Conservation Areas and protects the setting of listed buildings.

² Planning application reference: 10/00450/FUL

19. Conflict also arises with Policies 9, 14, and 16 of the emerging Hull Local Plan (Public consultation document 2016) which, amongst other things, collectively seek to support main town centre uses which are compatible with the historic fabric of the area, deliver a high quality environment and avoid harm to the significance of a heritage asset. The plan is not yet adopted and, therefore, full weight cannot be accorded to its policies. However, the Plan is at an advanced state of preparation and the identified conflict, therefore, weighs against the proposal.

Other matters

20. Concerns have been raised regarding the potential for disturbance to residential properties to the east of the appeal site. However, similar uses exist in the vicinity and I consider that conditions seeking to restrict hours of operation and controlling noise could have been imposed to address the matter had I decided to allow the appeal.

Conclusion

21. For the reasons stated, and taking all other considerations into account the appeal should be dismissed.

Caroline Mulloy

Inspector