



Appeal Decision

Site visit made on 17 July 2019

by Mr M Brooker DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 22 July 2019

Appeal Ref: APP/C1055/W/19/3226919

134 Mansfield Road, Derby DE1 3RA

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a grant of planning permission subject to conditions.
 - The appeal is made by Mr Henryk Stojak against the decision of Derby City Council.
 - The application Ref 09/17/01165, dated 8 September 2017, was approved on 14 March 2019 and planning permission was granted subject to conditions.
 - The development permitted is the installation of security shutters and installation of replacement front window and door.
 - The condition in dispute is No 2 which states that: The planning permission hereby granted does not imply the granting of permission for the retention of the shutter box and roller shutter.
 - The reason given for the condition is: The roller shutter is causing less than substantial harm to the significance and character of the Victorian terrace on which it is located and the wider Little Chester Conservation Area, which is not outweighed by the public benefits of the proposal and accordingly it is contrary to Policy CP20 of the Derby City Local Plan – Part 1 (Core Strategy) and saved Policy E18 of the City of Derby Local Plan Review and overarching guidance in the NPPF (2018).
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Decision

1. The appeal is dismissed.

Application for costs

2. An application for costs was made by Mr Henryk Stojak against Derby City Council. This application is the subject of a separate Decision.

Procedural Matter

3. I have used the description given by the Council as this is more concise and accurate than that given on the application form. The development has been carried out and consent was sought retrospectively, I have therefore determined this appeal on that basis.

Background and Main Issue

4. Planning permission has been granted for the retention of alterations made to the shop front. Condition 2 of the decision notice specifically excluded the retention of the security shutter and housing that was installed at the same time.
5. The main issue is whether or not the condition is necessary in the interests of protecting the significance and character of the Little Chester Conservation Area (CA).

Reasons

6. The appeal property is a typical period terraced property, the ground floor of which is in commercial use. The area around the site is, while predominantly residential, of a similar character and appearance and includes a number of other commercial units. The site overlooks a park, Chester Green.
7. The significance of the CA derives largely from the evolutionary nature of development, from early Roman occupation to later 19th Century industrial growth; together making a contribution to the architectural and historic quality and character of the area surrounding Chester Green.
8. At my site visit I noted that a number of other commercial properties near to the appeal site have security shutters and box housing of a similar style and design to that for which consent is sought here. However, I have not been provided with any substantive evidence that these benefit from consent or the policies or circumstances that were relevant when any consent may have been granted.
9. I saw that the shutter housing is of a significant size and is a prominent and incongruous feature on the shop front and is clearly visible in the wider area and thus harms the character and appearance of the CA.
10. The appellant has referred to photographs of the previous shop front, however, this shows a significantly smaller projection above the shop sign. Furthermore, the appellant states that the security shutter is necessary to secure the premises and has referred to a number of break-ins, acts of vandalism and anti-social behaviour that the appeal site has suffered in the past. While I have been provided with very little substantive evidence to support this, I nonetheless give this matters some weight, but it does not outweigh the harm I have identified previously.
11. I find that the size and appearance of the roller shutter and housing would be harmful to the character and appearance of the CA. For the reasons I have set out I find the proposal to be contrary to Saved Policies GD5, E18 and E25 of the City of Derby Local Plan Review and Policies CP3, CO4 and CP20 of the Derby City Local Plan Part 1 (Core Strategy). These policies seek to ensure that proposals preserve or enhance the character or appearance of, in this instance, the CA.
12. I am statutorily required¹ to pay special attention to the desirability of preserving or enhancing the character or appearance of the SCA. The Framework advises that where a proposal would cause less than substantial harm to the significance of a designated heritage asset this harm should be weighed against the public benefits of the proposal². Any harm should require clear and convincing justification³.
13. The roller shutter and housing would cause less than substantial harm to the significance of the CA as a whole as it relates to one property. I have taken into account the security benefits of the shutter however these benefits do not overcome the harm that I have identified above, harm that I am required to give great weight to.

¹ Section 72(1) - Planning (Listed Buildings and Conservation Areas) Act 1990

² Paragraph 196 – National Planning Policy Framework

³ Paragraph 193 – National Planning Policy Framework

Other Matters

14. I appreciate that the appellant was frustrated with the length of time that the Council took to assess the scheme and determine the application. However, this is not a matter for me to address in the context of this appeal, which is confined to a consideration of the planning merits of the proposal.

Conclusion

15. For the reasons given above I conclude that the appeal should be dismissed.

Mark Brooker

INSPECTOR