



Appeal Decision

Site visit made on 10 June 2019

by N Thomas MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 22 July 2019

Appeal Ref: APP/Z2260/W/19/3225794

The Pavilion, Harbour Street, Broadstairs, Kent CT10 1EU

- 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 Thorley Taverns Ltd against the decision of Thanet District Council.
 - The application Ref F/TH/18/1312, dated 19 September 2018, was refused by notice dated 19 December 2018.
 - The development proposed is described on the application form as a 'retrospective application for already erected extract system with proposals to box in'.
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Decision

1. The appeal is dismissed.

Procedural Matter

2. I saw on my site visit that an extract flue is in place on the roof of the building. The planning application sought permission for the flue, with the proposed addition of timber framing with ply and a glass fibre finish to enclose it. I have considered the appeal on this basis.
3. Since the Council determined the application the revised National Planning Policy Framework (the Framework) was published in February 2019. There are no changes that are material to this appeal.

Main Issues

4. The main issues are:
 - Whether the proposal would preserve or enhance the character or the appearance of the Broadstairs Conservation Area (BCA); and
 - whether the proposal would preserve the setting of the Windsor Cinema, a Grade II Listed Building.

Reasons

BCA

5. The Pavilion lies within the BCA. Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the Act) requires that with respect to development affecting buildings or other land in a conservation area, special attention shall be paid to the desirability of preserving or enhancing the character or appearance of that area. Paragraph 193 of the Framework sets out

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, irrespective of degree of harm. Paragraph 194 of the Framework sets out that any harm to the significance of a designated heritage asset should require clear and convincing justification.

6. The BCA includes the central section of the town. The area around Harbour Street has a tight urban grain, allowing glimpses of the early historic townscape with narrow views between buildings. The Pavilion is a restaurant, bar and function room set adjacent to the beach at Viking Bay, and below the level of the cliff to the rear. The Promenade and Eldon Place are public walkways that run along the cliff top, allowing views across the roof of the Pavilion towards the beach and the sea. The main part of the building consists of three parallel pitched roofs, with glazing to the front overlooking the bay, and its simple roof form is clearly visible as part of the wider roofscape in views from the walkway to the rear.
7. The appeal proposal has resulted in a large metallic extract flue on the roof of the Pavilion, serving an extraction system for the restaurant. The 'trunking' of the flue runs horizontally along the lower portion of the side pitch of the roof, raised up from the plane of the roof on metal supports. The flue extends onto an area of flat roof, before terminating in line with the front elevation. It is highly visible from several public viewpoints, including from the Harbour Street entrance to the Pavilion, in views over the roof tops from Eldon Place, as well as from the front of the building and various points on the beach. The existing flue is a noticeable feature in an elevated position on the roof, resulting in a discordant element that disrupts the simple symmetry of the roof form.
8. The appellant states that the enclosure for the flue would be finished in ornate timber with features of the local vernacular to be finished in a colour matching the existing roof finish. While this would screen the existing metallic appearance of the flue, it would add considerable bulk and the resulting addition would appear as an incongruous roof form on the building. I am not therefore persuaded that it would be successful in disguising the form of the flue or mitigating its harmful impact on the character or appearance of the building. In this highly visible location, the proposal would therefore detract from the character and appearance of the BCA.
9. For the above reasons the proposal would fail to preserve or enhance the character or appearance of the BCA, contrary to the requirements of the Act. It would also conflict with saved Policy D1 of the Thanet Local Plan 2006 (the Local Plan), insofar as it seeks to ensure that new development is of high quality design and materials and respects or enhances the character or appearance of the surrounding area.
10. However, in the context of the BCA as a whole, I consider the harm to the significance of the designated heritage asset would be less than substantial. In accordance with Paragraph 196 of the Framework, the harm, to which I afford considerable importance and weight, should be weighed against the public benefits of the proposal. I will deal with this later in this decision.

The Windsor Cinema

11. The Windsor Cinema, a Grade II listed buildings, fronts onto Harbour Street and backs onto the side elevation of the Pavilion. Section 66(1) of the Act

requires that in considering development which affects a listed building or its setting, special regard shall be had to the desirability of preserving the building or its setting. Paragraphs 193 and 194 of the Framework are also applicable.

12. The listing description of the Windsor Cinema states that it dates from 1911 and is in a neo-Georgian style. The building is single storey and flint-faced, with a pediment and modillion cornice and one round window to the front, and a Venetian window on the rear. As a result of its design it complements the older surrounding properties, but stands out from them. Its rear elevation is visible above the roof of the Pavilion from nearby public vantage points, including from the cliff top walkways. Given the close proximity to the Windsor Cinema, the Pavilion and its simple roof form can reasonably be said to fall within the setting of this listed building.
13. Due to its siting, the flue is in close proximity to the Windsor Cinema and is clearly visible in views towards the rear of the building from the cliff top walkway. The existing flue is also apparent in the narrow view from Harbour Street along the side of the Windsor Cinema. The proposed enclosure would create an incongruous roof form to the Pavilion that would detract from its simple appearance and would thereby be harmful to the setting of the Windsor Cinema.
14. I therefore conclude that the proposal would fail to preserve the setting of the Windsor Cinema, contrary to the requirements of the Act. It would also be in conflict with saved Policy D1 of the Local Plan, insofar as it seeks to ensure that new development is of high quality design and materials and respects or enhances the character or appearance of the surrounding area.
15. However, I consider that, due to the relatively small scale of the proposal in the context of the wider setting of the Windsor Cinema, the harm to the significance of the designated heritage asset would be less than substantial. Again, such harm, to which I afford considerable importance and weight, should be weighed against the public benefits of the proposal. I deal with this later in my decision.

Public benefits

16. I understand that the previous extraction system was situated at the rear of the building against the cliff face, and dispersed smells towards the upper promenade and buildings. The Council had also received complaints regarding odour. The Council's Environmental Health Officer indicates that the proposal has improved matters by moving the terminal further away from residential windows and that no complaints have been received since it was installed. I also acknowledge that there is local support for the proposal, which refers to previous concerns with noise and odour. In addition, I recognise the benefits to the local economy and tourism in ensuring that the business can continue to function in a manner that does not cause a nuisance to neighbouring residents. However, I have seen no substantive evidence to demonstrate that there are no alternative means of controlling odour from the premises in a satisfactory manner that would be less harmful to the designated heritage assets.
17. I am therefore not persuaded that the public benefits of the proposal constitute clear and convincing justification to outweigh the harm I have identified to the significance of the BCA and Windsor Cinema designated heritage assets. The proposal would therefore conflict with the relevant policies of the Framework.

Conclusion

18. For the reasons given above, and taking into account all matters raised, I conclude that the appeal should be dismissed

N Thomas

INSPECTOR