



Appeal Decisions

Site visit made on 10 September 2019

by H Porter BA(Hons) MScDip IHBC

an Inspector appointed by the Secretary of State

Decision date: 18th September 2019

Appeal A Ref: APP/F0114/W/19/3228613

39 Milsom Street, Bath BA1 1DS

- 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 Troia (UK) Restaurants Ltd against the decision of Bath & North East Somerset Council.
 - The application Ref 18/05562/FUL, dated 14 December 2018, was refused by notice dated 21 February 2019.
 - The development is installation of 1no. canopy above the main entrance door to the western (front) elevation of the application site.
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Appeal B Ref: APP/F0114/Y/19/3228615

39 Milsom Street, Bath BA1 1DS

- 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 Troia (UK) Restaurants Ltd against the decision of Bath & North East Somerset Council.
 - The application Ref 18/05563/LBA, dated 14 December 2018, was refused by notice dated 21 February 2019.
 - The works are installation of 1no. canopy above the main entrance door to the western (front) elevation of the application site.
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Decisions

1. Appeal A is dismissed.
2. Appeal B is dismissed.

Procedural matters

3. The description of development and works within the original planning and listed building consent application form refers to the application site being at 9 – 11 Hill Street Bath. As this is evidently an error, I have removed reference to this within the banner headings above.
4. Both Appeal A and Appeal B concern the installation of a canopy above the entrance of 39 Milsom Street, which has already taken place. While the remit of the planning and listed building regimes is different, in order to avoid repetition and in the interests of clarity, I will deal with some aspects of each appeal together in my reasoning and conclusion below.

Main Issues

5. The main issues are whether the Grade II* listed building or any features of special architectural or historic interest it possesses have been preserved; and the effect of the canopy on the character and appearance of the area.

Reasons – both appeals

6. The appeal site, 39 Milsom Street (No. 39) at the middle of a Grade II* listed terrace of five former houses known as Nos. 37 – 42 (Consec) Somersetshire Buildings. Located in the Bath Conservation Area and Bath World Heritage Site, No. 39 had historically been in use as a bank and is now a restaurant within the bustling primary shopping area at the city centre.
7. The statutory list description has the terrace dating from between 1781 – 1783 by Thomas Baldwin. Constructed of limestone ashlar, it consists of three storeys plus attic. No. 39 steps forward within the street and forms a symmetrical composition, articulated by a central bowed front with rusticated ground floor and evenly distributed semi-circular arched openings. The far left-hand opening contains the double three-panel entrance doors, identified as dating from c. 1840, within a studded frame below a decorative fanlight.
8. The appeal building is an important example of the high-status, ornately detailed buildings that underpin the high-quality architectural backdrop of Bath. It's prominence on Milsom Street, a key thoroughfare within the city centre that is characterised by classically-styled terraced streets and buildings, means it is a component of the significance of the Bath Conservation Area (BCA) and the City of Bath World Heritage Site (WHS) as heritage assets.
9. As part of a highly-graded building of special architectural and historic interest, the significance of the appeal site relates partly to the integral contribution it makes to Bath's iconic and resplendent Georgian townscape. The elaborate detailing, quality materials and craftsmanship, as well as the carefully balanced and ordered frontage, contribute to the overall coherent and consistent form of the building. Also of significance are the building's former use and the continued legibility of this in spite of the building's evolution over time; its surviving historic architectural and decorative features; as well as the continued legibility of a symmetrical and balanced composition as seen from the street.
10. The canopy has been installed within the arched entrance recess and projects a short way out beyond its elevation. Despite being relatively modest in size, of a broadly traditional appearance and dark-green colour, the canopy visually disrupts what is otherwise a carefully balanced, symmetrical frontage. Extending almost flush with the central box, it is masked to some extent by its protuberance. However, it also serves to weaken the architectural coherence of the building and the careful planning of the listed terrace as a whole. More critically, its installation obscures the upper portion of the studded entrance door and, the decorative fanlight above it.
11. Therefore, the canopy has failed to preserve the listed building and has caused small, yet material, harm to its significance and special interest. By the same token, and given its prominent location, the canopy has also failed to preserve the character and appearance of the BCA as a whole and undermined an

element of the architecture that underpins the outstanding universal values, authenticity and integrity of the WHS.

12. Owing to the scale and nature of the works, the degree of harm to the designated heritage assets has been less than substantial. In such circumstances, paragraph 196 of the National Planning Policy Framework, revised February 2019, requires this be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use.
13. The case is advanced that the canopy offers shelter for customers in times of inclement weather, as well as improved legibility of the restaurant's entrance. However, the size of the canopy would, in my opinion, offer very little meaningful shelter to more than a handful of waiting customers at exceptional times where the queue extended beyond the internal lobby and it was raining. Moreover, I am unconvinced that alternative, less harmful, options to better manage customer-flow into the restaurant have been fully explored. Furthermore, the extant restaurant is well-known and occupies one of the most prominent buildings along the street. I am therefore doubtful that customers would fail to observe the restaurant's entrance in the absence of the canopy above it. In the absence of compelling evidence to indicate that the canopy is essential to securing the extant use of the building, the totality of the weight of benefits in favour of the proposal are modest and not enough to outweigh the less than substantial harm to the Grade II* listed building, BCA and WHS.
14. My attention has been drawn to shopfront canopies on other buildings with shopfronts along Milsom Street. However, none that I saw represented a useful parallel or justification for allowing the appeal scheme, which has been decided on its merits.

Conclusions – both appeals

15. I conclude that the works and development, in failing to preserve the listed building and conservation area, run counter to the statutory expectations within s. 66(1) and s.72(1) of the Planning (Listed Buildings and Conservation Areas) Act, 1990. That the harm carries considerable importance and weight and is not outweighed by wider public benefits. Conflict has therefore arisen with paragraph 196, the historic environment, as well as the quality design policies within the National Planning Policy Framework. For the same reasons there is conflict with the local development plan policies that align with these statutory and national policy objectives, notably Policies B4 and CP6 of the Bath and North East Somerset Core Strategy Part 1 of the Local Plan, July 2014 and Policies D1, D2, D3, D4, D5 and HE1 of the Bath and North East Somerset Placemaking Plan, July 2017.
16. For the reasons given above, I conclude that the Appeal A and Appeal B should be dismissed.

H Porter

INSEPECTOR