
Appeal Decision

Site visit made on 2 December 2019

by Elizabeth Pleasant BSc (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 18 December 2019

Appeal Ref: APP/W4705/C/19/3229817

Land at 31 North Parade, Bradford BD1 3JL

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991.
 - The appeal is made by Locate Properties UK Limited against an enforcement notice issued by City of Bradford Metropolitan District Council.
 - The enforcement notice was issued on 16 April 2019.
 - The breach of planning control as alleged in the notice is: Without planning permission, the installation of a condenser unit and enclosing cage on the west facing rear elevation of the building on the land, as shown of the attached photograph.
 - The requirements of the notice are: Remove the unauthorised condenser unit, enclosing cage and all means of fixing from the west facing rear elevation of the building on the land.
 - The period for compliance with the requirements is one calendar month.
 - The appeal is proceeding on the grounds set out in section 174(2) (a) (f) and (g) of the Town and Country Planning Act 1990 as amended. Since an appeal has been brought on ground (a), an application for planning permission is deemed to have been made under section 177(5) of the Act as amended.
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Decision

1. It is directed that the enforcement notice be varied in paragraph 6 by the deletion of "One calendar month" and the substitution of "Three months". Subject to this variation the appeal is dismissed and the enforcement notice is upheld, and planning permission is refused on the application deemed to have been made under section 177(5) of the 1990 Act as amended.

Procedural Matter

2. The appeal form indicated that the appeal was being made on grounds (a), (b), (c), (f) and (g). However, the appellant has subsequently confirmed that they wish to formally withdraw grounds (b) and (c). It is on that basis that I have determined the appeal.

Appeal on ground (a), deemed planning application

Main Issue

3. The main issue is the effect of the development on the character and appearance of the host property and the City Centre Conservation Area.

Reasons

4. The appeal premises are situated in a prominent location on the corner of North Parade and Northgate, and within the City Centre Conservation Area (CA). It is a three-storey property with commercial premises at ground floor and apartments on the floors above. The condenser unit and enclosing cage are positioned on the flank wall of the property, facing Northgate and Nutter Place, and the area of public open space within which the Oastler Statue is situated. The Oastler Statue is a grade II listed building.
5. From the evidence before me and my own observations, the special character and significance of the CA as a heritage asset is largely derived from its fine collection of historic and architecturally important buildings which form the Victorian commercial core of Bradford, including their layout and the spaces that have been created around them. By reason of its position, scale, design and materials I consider that the appeal premises make a positive contribution to the character and appearance of the CA.
6. The condenser unit is positioned just above head height on the flank wall of the property. This elevation of the property has a robust plain façade with only a small amount of fenestration. Its prominence is reinforced by the proximity of the elevation to the pedestrianised street and adjoining open space.
7. The condenser unit is a substantial piece of plant which is enclosed by a galvanised steel cage. I appreciate that the unit is not at ground level and therefore does not impede the use of the adjoining highway. However, it is visually prominent. It has a substantial bulk and box form which projects well beyond the face of the building, thereby encroaching on views along the neighbouring pedestrianised area. It appears as a stark and obtrusive feature on an otherwise unadorned façade and has a harmful effect on the overall simple design characteristics of this building. Consequently, it also detracts from the character and appearance of the CA.
8. I have taken into account the appellant's willingness to accept a condition which would require the replacement of the cage with a Cementitious Particle Board or similar alternative which could be coloured/faced to blend in with the stonework. However, those alterations would not reduce the bulk form of the unit and to an extent also increase its mass. Those works would not therefore overcome the harm that I have identified to the heritage asset.
9. The overall impact of the development is, in the context of the significance of the CA as a whole, and in the language of the National Planning Policy Framework (the Framework), less than substantial. In those circumstances, paragraph 196 of the Framework says that this harm should be weighed against the public benefits of the proposal, including securing its optimum viable use.
10. The appellant has recently refurbished the property and secured a new use for the building which has some public benefit. I also appreciate the benefits of providing the staff employed in the offices and their customers with an air-conditioned environment. However, I have not been provided with any substantive evidence to demonstrate that alternative technical solutions or designs are not available which may be less visually obtrusive. These benefits would not outweigh the considerable importance and weight to be given to the harm to the heritage asset.

11. I conclude that the condenser unit and enclosing cage have a harmful effect on the host property and fail to preserve or enhance the character and appearance of the City Centre Conservation Area. The development is therefore contrary to policies in the Framework which seek to conserve and enhance the historic environment. I also find conflict with the design and heritage aims of Policies DS1, DS3 and EN3 of Bradford's Core Strategy Development Plan Document (adopted 2017).

Other Matters

12. The Oastler Statue is situated within the open space which adjoins the appeal site. This space and the buildings that frame it make a positive contribution to the significance of this asset. However, given the distance of the appeal building from the Oastler Statue, the condenser unit would not visually compete with the asset or distract from it. I do not therefore consider that the unit has a harmful effect on the setting of this listed building.
13. I have had regard to the appellant's concerns in relation to anti-social behaviour in the area and their views on the pruning works that have recently been undertaken to the trees within the neighbouring open space. However, those considerations do not outweigh the harm that I have identified to the character and appearance of the host building and CA.

Conclusion

14. For the reasons given above, and taking into account all other matters raised, I conclude that the appeal on ground (a) must fail.

Appeal of ground (f)

15. The issue is whether the requirements are excessive to achieve the purpose(s) of the notice.
16. Section 173 of the Town and Country Planning Act 1990 (as amended) indicates that there are two purposes which the requirements of an enforcement notice can seek to address. The first is to remedy the breach of planning control that has occurred and the second to remedy any injury to amenity which has been caused by the breach. In this case the purpose behind the notice is to remedy the breach of planning control.
17. The appellant considers that his proposal to replace the cage and enclose the condenser unit with Cementitious Particle Board or similar alternative would overcome any complaint the Council has with regard to the visual impact of the development. However, I have found that the condenser unit with that alternative casing would not be acceptable, and therefore the lesser steps put forward by the appellant is not an option that is open to me.
18. The appeal on ground (f) must fail.

Appeal on ground (g)

19. The issue is whether the compliance period of one calendar month is reasonable. The appellant considers that three months is a more reasonable time frame within which to secure compliance.
20. The removal of the condenser unit would require the engagement of professional and technical services. That being the case it seems to me that a

period of one month is a relatively short period of time within which those services could be engaged, and then the work carried out. A period of three months would therefore seem to be a more reasonable time frame. To this extent the appeal on ground (g) succeeds.

Overall Conclusion

21. For the reasons given above, and having taken account of all other matters raised, I conclude that the appeal should not succeed. I shall uphold the enforcement notice with a variation and refuse to grant planning permission on the deemed application.

Elizabeth Pleasant

INSPECTOR