
Appeal Decision

Hearing Held on 15 January 2020

Site visits made on 14 and 15 January 2020

by Neil Pope BA (Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 23 January 2020

Appeal Ref: APP/F0114/Y/19/3237847

Garfunkels, Orange Grove, Bath, BA1 1LP.

- 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 The Restaurant Group against the decision of Bath & North East Somerset Council (the LPA).
 - The application Ref. 19/00467/LBA, dated 31 January 2019, was refused by notice dated 14 June 2019.
 - The works proposed are internal alterations to facilitate general refurbishment and replacement of sign writing on entrance canopy with leaded glass to match existing.
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Decision

1. The appeal is allowed and listed building consent is granted for internal alterations to facilitate general refurbishment and replacement of sign writing on entrance canopy with leaded glass to match existing at Garfunkels, Orange Grove, Bath, BA1 1LP. Consent is granted in accordance with the terms of the application Ref. 19/00467/LBA, dated 31 January 2019 and subject to the conditions in the Schedule below.

Preliminary Matters

2. The appeal site forms part of the ground floor (dining room) of the grade II listed building¹ known as the Empire Hotel². It lies within the Bath Conservation Area³ (BCA) and the Bath World Heritage Site (WHS).
3. The LPA's reason for refusal is limited to the proposed installation of a new bar servery within the dining room. The LPA has informed me that the proposed works of redecoration, lighting, flooring and alternative seating would deliver a small enhancement to the significance of the listed building. I also note from its officer's report that the removal of the writing from the entrance canopy and the reinstatement of leaded glass was deemed "*uncontentious and supported*".
4. The LPA's decision is based upon some amended drawings which show minor amendments to the proposed works, including a reduction in size of the proposed bar servery. I have determined the appeal on the basis of the amended plans.

¹ The provisions of section 16(2) of the Planning (Listed buildings and Conservation Areas) Act 1990 are engaged.

² Built at the turn of the 19th century and now in use as apartments and restaurants.

³ The provisions of section 72(1) of the Planning (Listed buildings and Conservation Areas) Act 1990 are engaged.

Main Issue

5. The main issue is whether the proposed works would preserve the special architectural or historic interest of the former Empire Hotel and preserve or enhance the character or appearance of the BCA.

Reasons

6. The heritage interest (significance) of the five storey former Empire Hotel⁴, which is clad in a Free Renaissance exterior, is derived from its special architectural and historic qualities. These include its grand scale and opulent features, which represent a huge hotel development (by Major C E Davis) that employed new construction techniques in Bath at the turn of the 19th century.
7. Over time, there have been numerous alterations to the appeal building, including some internal works⁵. As noted within the list description, with the exception of decoration, the public rooms on the ground floor are little altered. These include the dining room with its subdued Greek manner, marbled Ionic columns, Greek architraves and fire surrounds with over-mantels.
8. As I saw during my visits, the dining room, which the appellant has calculated is approximately 22 metres (long) x 10.8m (wide) x 5m (high), retains its original proportions and much of its spaciousness. These qualities and the original features, such as the marbled columns and fireplaces, retain a sense of a large formal dining room in a grand hotel. They make an important contribution to the significance of this listed building.
9. However, in addition to the fixed seating within the dining room, there is an array of late 20th century lighting, some tiled flooring (referred to as linoleum in the Statements), a modern salad bar and altered panelling. To a limited extent, these alterations detract from an appreciation of the qualities of the dining room and the contribution it makes to the significance of the building.
10. The proposed redecoration, lighting, flooring, new seating⁶ and the removal of the mirrored panel and salad bar from the back of the dining room would replace inappropriate modern alterations with sympathetic new works. This would better reveal the qualities/heritage interest of the dining room. Together with the proposed removal of the bar/servery from within the library room and the reinstatement of leaded glass on the entrance canopy, there would be a small enhancement to the significance of the listed building. At the Hearing, those representing the appellant informed me that these works would not be undertaken without the proposed bar servery within the dining room.
11. The proposed bar servery would be located centrally within the dining room. The size and design of this element of the proposed works was amended in an attempt to secure an approval. The LPA has calculated that it would measure approximately 6.8m (long) x 3m (wide) x 2.6m (highest point). This element of the proposals would be readily apparent on entering the dining room. Although it would be modest in size, the proposed bar servery would, to a limited extent, have the potential to erode the spacious character of the room.

⁴ Five main storeys with attics, basements and a seven storey corner tower.

⁵ Such as the faux doors (and solid screen to either side) that split the restaurant uses from the apartments and the bar in the former library, which have eroded the integrity of the original planform, as well as the extensive banquette seating within the dining room. These have had an adverse effect upon the character of the building.

⁶ This would be less extensive than at present and would not obscure important architectural features.

12. However, the grand scale of the dining room would remain and people would be able to comfortably move around the bar servery and experience the sense of space. In comparison to the existing layout, with the banquette seating and salad bar, the proposal would be less cluttered. The bar servery would not have any materially greater impact upon the spacious qualities of this room.
13. I note the LPA's concerns that when looking at the west wall from the entrance to the dining room, the taller section of the bar servery would interrupt some views of the fireplaces and some sections of the facing windows. Be that as it may, this view of the west wall is of no greater importance than any other views within the dining room and people would be unlikely to linger in the doorway. Moreover, as they moved around the bar servery and/or occupied seats in other parts of the room, these proposed works would not interrupt other views of the fireplaces or windows. People would be able to appreciate and understand the significance of the architectural features of the room.
14. It is also not lost on me that despite the banquette seating being lower in height than the taller parts of the proposed bar servery, this fixed seating extends along much of the length of the west wall and obscures parts of the fireplaces. The new bar servery would not significantly diminish the ability to experience the special qualities of this listed building. However, even if the effect was significant, when all of the proposed works are considered together, any such effect would be offset by the enhancement to the significance of the building that I have identified above. The proposed works would preserve the special architectural and historic interest of the former Empire Hotel.
15. Whilst my decision does not turn on the following, the proposed bar servery would not harm any important building fabric and such works are capable of being reversed. The proposal would also assist in securing the re-use of this part of the listed building for commercial purposes. It is very unlikely that a restaurant operator would want to return to the table/seating layout of the early part of the 20th century.
16. The BCA is an extensive area that covers much of the city centre. At the Hearing, both main parties informed me that the small scale nature of the proposed works would preserve the character and appearance of the BCA. I concur with the main parties on this matter and there is nothing to demonstrate any adverse impact upon the special qualities of the BCA.
17. I conclude on the main issue that the proposed works would preserve the special architectural and historic interest of the former Empire Hotel and preserve the character and appearance of the BCA. In so doing, the appeal scheme would accord with the objectives of national⁷ and local⁸ planning policies for protecting the historic environment.

Other Matters

18. The WHS is also an extensive area. There is no evidence before me to indicate that the proposed works would harm the significance or Outstanding Universal Value of this area.

⁷ As set out in section 16 of The National Planning Policy Framework.

⁸ Policy CP6(2) of the Bath and North East Somerset Core Strategy and policy HE1 of the Core Strategy & Place Making Plan.

19. I note the concerns of some interested parties regarding the appellant's intentions in respect of the future use of this part of the listed building, as well as concerns regarding potential noise disturbance and maintenance agreements. However, in determining this appeal, I must confine my consideration to matters relating to the likely impact upon the historic environment. I am unable therefore to take these other matters into account.

Planning Conditions

20. In addition to the 'standard' condition requiring works to commence within three years, in the interest of certainty, a condition would be necessary specifying the approved plans. To safeguard the special architectural and historic qualities of the listed building a condition would be necessary requiring the submission of further details regarding the: design and location of the new fixed seating; design, materials, position and method of fixing the new lighting and; details of the proposed decorative scheme. A condition requiring the proposed works of enhancement to be undertaken before the new bar serverly was brought into use would also be necessary to ensure that there would be no overall harmful impact of the proposed works.

Overall Conclusion

21. Given all of the above, I conclude that the appeal should succeed.

Neil Pope

Inspector

APPEARANCES

FOR THE APPELLANT:

Mr T Hill QC	Instructed by Mr J Phillips, Bidwells LLP
Mr S Handforth BA (Hons), MSc, MA	Divisional Partner, Bidwells LLP
Mr J Phillips	Bidwells LLP

FOR THE LOCAL PLANNING AUTHORITY:

Mrs C Waldron IHBC, MRTPI	Senior Conservation Officer
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INTERESTED PERSONS:

Mrs A Robins	Empire Owners' Association Committee
Prof S Kolaczowski	Local Resident

SCHEDULE OF PLANNING CONDITIONS

1. The works hereby permitted shall commence within a period of three years from the date of this decision.
2. The works hereby permitted shall be undertaken in accordance with the details shown on the following approved plans: 1:1,250 scale location plan (ref. 1716/00 Rev A); 1:50 scale proposed ground floor layout (ref. 104 Rev C); 1:20 scale proposed bar layout & details (ref. 09 Rev D); 1:50 scale proposed internal sections sheets 1 & 2 (refs. 106 & 107); 1:50 scale toilet layout (ref. 105 Rev A); 1:50 scale proposed kitchen layout (ref. 109 Rev A); 1:20 scale acoustic works detail sheet (ref. 112) and; proposed entrance canopy glazed return (photomontage).
3. Prior to the installation of any new fixed seating or the scheme of new lighting or internal redecoration, details of the following shall be submitted to and approved in writing by the Local Planning Authority:
 - i) the design and precise location of any new fixed seating;
 - ii) the design, materials, positions and method of fixing the new lighting;
 - iii) the scheme of internal redecoration.The works shall be undertaken in accordance with the approved details.
4. Prior to the bar/servery hereby permitted being brought into use the following proposed works shall be undertaken:
 - i) removal of the existing banquet style seating and the existing array of lighting features within the dining room;
 - ii) redecoration and repair to the plaster mouldings and panelling;
 - iii) removal of the existing mirrored panel at the rear of the dining room and continuation of the dado moulding and reinstatement of panelling;
 - iv) replacement of dimpled glass panels to the upper portion of the glazed entrance canopy and installation of leaded lights;
 - v) removal of tiled flooring in the library and dining room and replacement with carpet and timber flooring as shown on the approved drawings;
 - vi) removal of the existing bar area from the library.