
Appeal Decision

Site visit made on 4 February 2020

by A A Phillips BA(Hons) DipTP MTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 22 February 2020

Appeal Ref: APP/N4720/C/19/3236082
454 Roundhay Road, Leeds LS8 2HU

- 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 Mr Marc Cunliffe of Marc Two Ltd against an enforcement notice issued by Leeds City Council.
- The enforcement notice was issued on 30 July 2019.
- The breach of planning control as alleged in the notice is the erection of a disabled ramp, deck, planters, seating and associated works to the front of this commercial business.
- The requirements of the notice are:
 - Step one: Dismantle the erected disabled ramp, deck, planters, seating and associated works.
 - Step two: Make good the parts of the premises and land to which it was attached.
 - Step three: Remove from the land all building materials and rubble arising from compliance with requirement (Step 1) above and restore the land to its condition before the breach took place.
- The period for compliance with the requirements is 2 months.
- The appeal is proceeding on the grounds set out in section 174(2) (a) of the Town and Country Planning Act 1990 as amended.

Summary of Decision: The appeal is dismissed and the enforcement notice is upheld.

The appeal on ground (a)

1. The ground of appeal is that planning permission should be granted. The main issue is the effect on the character and appearance of the area bearing in mind the special attention that should be paid to the desirability of preserving or enhancing the character or appearance of the Roundhay Conservation Area. As the proposal is in a conservation area, I have had special regard to section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990.
2. The appeal site comprises a café with a wooden grey painted shop front. The entrance door is to the right of the frontage and an access ramp leads directly to the door. There are also two steps which can be used to access the property. The access ramp is painted in grey to match the shopfront and there is also grey wooden seating area to the front of the property with benches, decking and a planter. A timber and scaffold pergola structure has also been erected over the seating area.
3. The site is located in a mainly commercial area with a range of retail and other commercial units in the ground floor. I observed at my site visit that other nearby properties have installed step-free access and also a few properties have outdoor seating areas. It is my understanding that the outdoor seating

areas are unauthorised and are the subject of ongoing investigations and action by the Council.

4. The site is situated within the Roundhay Conservation Area and is considered to be one of the "Other Positive Buildings" in the Roundhay Conservation Area Appraisal. The prevalent character of this area is buildings with coursed sandstone with ashlar detailing, including the window surrounds. The properties in the vicinity are of three storeys with a gable feature which provide additional roof space accommodation. The uniformity of building frontages along the parade and its relatively simple form makes a positive contribution to the character and appearance of the Oakwood character area and the Conservation Areas as a whole.
5. As a consequence of the location of the development to the front of the property it is visually prominent in its surroundings and is overly dominant on the property, detracting from the important visual elements of the building and therefore reduces its visual quality and its contribution to the character and appearance of the conservation area.
6. The structure is relatively heavy weight and its scale, materials and permanent appearance amplify its visual dominance that I consider to be unsympathetic to the frontage of the host building. Owing to its appearance it also competes with the wider row of properties which are specifically recognised as making a positive contribution to the character and appearance of the conservation area.
7. The appellant has stated that the existing decking will be removed but would like to retain the ramp because a large number of customers need it to access the premises. However, it seems to me that the ramp is an integral part of the larger seating area structure. Additional work such as constructing railings would be required if the ramp was to be retained. In the absence of further detailed evidence of retaining the ramp could be achieved I am concerned that, as a consequence of its materials, projection from the frontage of the property and visual prominence it would be detrimental to the visual quality of the host building, the row of buildings and fail to preserve or enhance the character or appearance of the conservation area.
8. Given the above, I find that the proposal would fail to preserve or enhance the character or appearance of the Roundhay Conservation Area. Consequently, I give this harm considerable importance and weight in the planning balance of this appeal. Paragraph 193 of the Framework advises that when considering the impact on the significance of designated heritage assets, great weight should be given to their conservation. It goes on to advise that significance can be harmed or lost through the alteration or destruction of those assets. Given the poor relationship to the frontage of the building and the harm to the character and appearance of the Conservation Area, I find the harm to be less than substantial in this instance but nevertheless of considerable importance and weight.
9. Under such circumstances, paragraph 196 of the Framework advises that this harm should be weighed against the public benefits of the proposal. The appellant is of the opinion that the development is beneficial because it fits in well with the café culture of the area, increases footfall, contributes to the success of the business and therefore creates job opportunities. I understand that there may be some economic benefits arising from the business, however, in terms of benefits that can be attributed to the seating area, I consider these

are relatively low. Whilst some customers may be attracted to the premises because of the outdoor seating area, there is insufficient evidence before me to show that the removal of the development would have a significant harmful effect on the business and related benefits such as employment. The vibrant commercial character of the area stems from the range of commercial activity taking place, which includes a number of cafes and other eateries. The development makes a small contribution to the area's commercial mix and activity. As such I give these benefits some weight in the overall balance.

10. In addition, it is argued that benefits of the development include controlling smoking and creating a safer space for customers, providing access opportunities for the community, including parents with children and disabled people. I consider that the benefits associated with providing a seating area for smoking outdoors is limited in the balance. In terms of the ramp, it is my understanding that it is steeper than would generally be allowed, being significantly steeper than advised in the Supplementary Planning Document Accessible Leeds. The ramp is also significantly narrower than normally required for access purposes. Therefore, although there may be some public benefits associated with improving access arrangements, this is reduced by the substandard access it provides.
11. The appellant has also drawn attention to the support the business gives to local junior sports teams, but I dispute that this is directly attributed to the development the subject of this appeal.
12. Given the above and in the absence of significant public benefit, I conclude that, on balance, the proposal would have a harmful effect on the character and appearance of the area bearing in mind the special attention that should be paid to the desirability of preserving or enhancing the character or appearance of the Roundhay Conservation Area. As such it conflicts with Policies GP5, BD6 and N19 of the Leeds Unitary Development Plan Review (2006), Policies P10 and P11 of the Core Strategy (2012), guidance in the Roundhay Conservation Area Appraisal and Management Plan and the Framework. Among other objectives these seek to avoid environmental intrusion, alterations should respect the scale, form, detailing and materials of the original building and all new buildings or extensions within conservation areas should preserve or enhance the character or appearance of the area.

Other matters

13. My attention has been drawn to local support for the development. It may be the case that members of the local community enjoy the seating area and want to have opportunities to enjoy outdoor spaces to enjoy food and drink, but that does not persuade me that the development undertaken by the appellant is suitable for its prominent location in the conservation area. The appellant also states that various other decking areas have been granted permission locally. However, I do not have specific details of those cases and therefore cannot be sure that they draw a direct parallel with the current development. In any case, it is my understanding that similar developments have been refused permission and there are other seating areas that do not benefit from planning permission. In any event, I have determined this appeal on its own merits.

Conclusion

14. For the reasons given above I conclude that the appeal should not succeed. I shall uphold the enforcement notice and refuse to grant planning permission on the deemed application.

Formal Decision

15. The appeal is dismissed and the enforcement notice is upheld. Planning permission is refused on the application deemed to have been made under section 177(5) of the 1990 Act as amended.

A A Phillips

INSPECTOR