
Appeal Decision

Site visit made on 18 August 2020

by M Heron BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 3rd September 2020

Appeal Ref: APP/M1520/W/20/3249805

Lobster Smack, Haven Road, Canvey Island SS8 0NR

- 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 Stonegate Pub Company against the decision of Castle Point Borough Council.
 - The application Ref 20/0073/FUL, dated 4 February 2020, was refused by notice dated 18 March 2020.
 - The development proposed is the installation of a new freestanding pergola structure within existing public house garden area.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. Planning permission has been granted by the Council for a different development at the appeal site. This included the installation of a freestanding external bar structure and a children's play area within the rear garden, the relocation of an existing pergola within the front garden, new paving and hard surfacing and new fencing. I shall refer to this as 'the approved development'.
3. From my site visit, it would appear that the development applied for in the heading above has already been constructed. Notwithstanding this, I have based my assessment on the submitted plans.

Main Issue

4. The main issue is the effect of the appeal development on the setting of The Lobster Smack Public House, which is a Grade II listed building.

Reasons

5. As the public house, which includes associated garden areas, is a Grade II listed building I have a statutory duty to have special regard to the desirability of preserving its setting. The National Planning Policy Framework (the Framework) also advises that great weight must be given to the conservation of designated heritage assets and any harm which is less than substantial must be weighed against the public benefit of the proposal.
6. The listed building is one of only a small number of buildings on Canvey Island which comprise fabric dating from about the 17th Century and this is important to its special architectural interest and to its significance as a designated heritage asset. In addition, its various uses have led to a number of alterations

which give the public house an interesting 'ad-hoc' appearance. This, together with the possibility that the asset influenced the writing of Charles Dickens, also adds to its significance. The setting of The Lobster Smack arises from the surroundings in which it is experienced, which in this case is mainly open. The degree of openness immediately about the public house has changed over time. However, its garden areas provide space in which to appreciate the heritage asset and contribute positively to its open setting.

7. This appeal development seeks permission for an open sided, freestanding pergola in the rear garden of the pub. This would be subservient in size to the public house, constructed of suitable materials and would not impact upon any historic fabric. Nevertheless, the pergola would occupy a significant proportion of the hardstanding in the rear garden and would increase the amount of built physical presence within it. It would therefore erode the garden's openness, to the detriment of the setting of the heritage asset. This would be particularly harmful when viewed in conjunction with elements of the approved development that have been implemented.
8. The pergola would also be positioned relatively close to the public house and adjacent to the external bar serverly constructed as part of the approved development. I appreciate that this siting is to encourage the use of these facilities by customers, particularly in colder months. However, the proposal's prominent positioning and overall size would restrict views of some parts of the rear elevation of the public house from certain vantage points within and adjacent to the site. Together with elements of the approved development, it would also draw the eye away from this elevation. This would diminish the overall appreciation of the historic building, reinforcing the harm identified above. This is so even though the pergola would mainly screen later additions to the pub.
9. I appreciate that the proposal is reversable and could be removed from the site when no longer required. Nonetheless, this would not mitigate the harm that arises when in situ, which could be a considerable period of time. As such, this carries only limited weight in my decision.
10. Taking all of the above into account, notwithstanding the findings of the appellant's Heritage Statement, the proposal would harm the setting of the designated heritage asset known as The Lobster Smack Public House. This harm would be less than substantial within the meaning of the Framework. Nonetheless, any such harm merits great weight in accordance with paragraph 193 of the Framework and falls to be weighed in the balance with the public benefits of the development.
11. The existing business contributes positively to the economy of the area. The pergola, in association with the approved development, would help provide improved and enhanced external facilities for customers at this site. I acknowledge that such facilities would assist with the on-going economic success of the business. However, I have no substantive evidence to show that the viability of the public house is currently at risk or that this particular proposal is required in order for the business to remain economically viable.
12. The proposal forms part of wider refurbishments that assist with the continuing upkeep and maintenance of the listed building. Whilst the conservation of the asset is a public benefit, it does not appear to me that the proposal is required

to ensure that it remains in a use that is appropriate for this particular designated heritage asset.

13. The appellant states that alternative locations for the pergola would be less convenient and possibly more harmful to the heritage asset. Nevertheless, it is not for me to consider the merits of alternative locations under this appeal process. Neither does this alter the fact that the location of the pergola would be harmful. Taking everything together, I am not persuaded that a clear and convincing justification for permitting the less than substantial harm to the heritage asset has been demonstrated. Such harm would therefore outweigh the public benefits associated with this scheme.

Other Matter

14. I note that this development is acceptable in other respects. For example, it would not result in harm to the living conditions of the occupants of surrounding dwellings. However, this is a requirement of the development plan and is therefore a neutral factor in my decision.

Conclusion

15. In conclusion, I find that the development would not preserve the setting of the listed building. It would also be contrary to the guidance in the Framework.
16. For the above reasons, and having regard to all other relevant matters raised, I conclude that the appeal should be dismissed.

M Heron

INSPECTOR