



Appeal Decision

Site visit made on 2 September 2020

by Thomas Shields MA DipURP MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 15 September 2020

Appeal Ref: APP/B0230/C/20/3249580

1 St. Thomas's Road, Luton, LU2 7UX

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991 (hereafter "the Act").
 - The appeal is made by Ali Kisa against an enforcement notice issued by the Luton Borough Council.
 - The enforcement notice was issued on 12 March 2020.
 - The breach of planning control as alleged in the notice is without planning permission, the erection of a front canopy and posts enclosure to the front and side elevations of the premises on the land ("the unauthorised development").
 - The requirements of the notice are:
 - i. Remove the unauthorised development from the land.
 - ii. Remove all associated building materials and rubble and waste materials arising from compliance with step (i) above from the land.
 - The period for compliance with the requirements is 3 months.
 - The appeal is proceeding on the ground set out in section 174(2)(a) of the Act. 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.
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Decision

1. 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 Act.

Main Issue

2. The main issue in the appeal is the effect of the canopy and posts enclosure on the character and appearance of the area.

Reasons

3. No. 1 St Thomas's Road is a two storey building located at the junction with Hitchin Road and is one of the predominantly commercial properties which face onto the centrally positioned war memorial. The first floor front elevation, containing 3 equally spaced windows, is in red brick, with the remainder of the building in painted render. At ground floor the café has a mainly glazed frontage. Wrapping around the frontage of the café is a block paved area available for seating. It is this whole area over which a canopy has been erected to provide shelter for customers sitting outside.
4. The canopy is constructed in timber, having a shallow fascia with yellow wording advertisement on a black background, and with a sloping felt roof which is

attached to the host building at the rear just below first floor window level, and at the front by a series of timber posts.

5. Contrary to the appellant's view, I consider that the whole structure appears out of scale against the proportions and details of the host building. Moreover, its poor quality materials and finishes in combination with its scale results in a somewhat stark and eye-catching development which undoubtedly detracts from the character and appearance of the host building and the surrounding area. Furthermore, this negative impact is all the more pronounced in surrounding views due to its prominent location.
6. I have considered whether the imposition of planning conditions could adequately mitigate the harm I have identified. However, there are none that would do so.
7. For these reasons I conclude that the development results in significant harm to the character and appearance of the area in conflict with Policies LLP1 and 25 of the Local Luton Plan (2017) which, taken together, seek to ensure that all new development contributes positively to the distinctiveness and character of an area.
8. I acknowledge the appellant's argument that it serves a useful function for customers, and thus supports the viability of the business. However, I see no reason why that function and viability could not equally be met with an alternative design, or alternative methods, and which would not result in the significant harm I have described.

Conclusion

9. The appeal on ground (a) and the deemed application for planning permission fail.

Thomas Shields

INSPECTOR