



Appeal Decision

Site visit made on 1st September 2020

by J Williamson BSc (Hons) MPlan MRTPI

an Inspector appointed by the Secretary of State

Decision date: 20 October 2020

Appeal Ref: APP/G4620/Z/20/3249460
30-32 High Street, Smethwick B66 1DT

- 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 Mr Wali Rahimy against the decision of Sandwell Metropolitan Borough Council.
 - The application Ref DC/19/63768, dated 28 November 2020, was refused by notice dated 23 January 2020.
 - The development is described as: Replacement of the old cloth canopy with metal canopy, to be used for selling fruit and veg in everyday use; without this canopy we will not be able to do our business because of rain, sun and wind. The old canopy was not fit for purpose, only a metal canopy will work for us.
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Decision

1. The appeal is dismissed.

Procedural Matter

2. The canopy has already been installed and I have made my decision on this basis.

Main Issue

3. The main issue is whether the development preserves or enhances the character or appearance of the Smethwick High Street Conservation Area (CA).

Reasons

4. The site forms part of a traditional terrace of three-storey properties located within the CA. The terrace has retail/service facilities at ground floor level and what appears to be residential accommodation on the upper 2 floors. The properties have retained much of their historical, architectural detail on the frontage of the upper 2 floors, though many of the shop fronts are not of traditional design or materials, which I consider has a negative effect on the CA. Overall, the site and the terrace of which it forms a part make a positive contribution to the street-scene and the character and appearance of the CA. Furthermore, these buildings, along with other traditional buildings along the High Street, make an important contribution to the significance of the CA.
5. A statutory duty requires me to pay special attention to the desirability of preserving or enhancing the character or appearance of a CA. Additionally, the National Planning Policy Framework (the Framework) advises that great weight

- should be given to the conservation of heritage assets when considering the impact of development on the significance of a designated heritage asset.
6. The canopy is a solid, corrugated structure with a shallow pitch, enclosed at both sides with cladding. It has a fascia board along the front edge with upvc guttering attached. The structure extends the full width of the site and is around 2 m deep. It is supported by 3 poles, extending upwards from the canopy's front edge to around the centre of the first floor, fixed either side and between the first-floor windows. The size and bright green colour of the support poles make them very prominent attachments to the building, emphasising the presence of the canopy they support. The design, materials and support poles of the canopy substantially disrupt and harm the architectural quality of the building's frontage and the frontage of the terrace.
 7. I therefore conclude that the development does not preserve or enhance the character or appearance of the CA. Consequently, it does not accord with policies ENV2 and ENV3 of the Black Country Core Strategy-2011, policies SAD HE2, SAD HE6 and SAD EOS9 of the Site Allocations and Delivery Development Plan Document-2012 (Development Plan Document), or heritage policies in the Framework. These policies seek, collectively, to preserve or enhance the character or appearance of heritage assets, respect the characteristics and architectural styles of historic buildings and achieve high quality design. Additionally, the development does not accord with Policy SAD DM10 of the Development Plan Document, which requires canopies on shop fronts to be retractable.
 8. The development is relatively small-scale and as such the harm that would be caused to the CA would be less than substantial. In accordance with paragraph 196 of the Framework, less than substantial harm to the significance of a designated heritage asset should be weighed against the public benefits of the proposal.
 9. The appellant asserts that the previous cloth canopy was not fit for purpose, was easily damaged and a potential danger to the public. It is also contended that the canopy is required to protect fruit and veg displayed on the pavement outside the building from the weather and to shelter customers, without which, it is claimed, the appellant would not be able to carry out their business. I consider these factors to be minor social and economic benefits to which I attach moderate weight. However, they do not outweigh the harm to the character and appearance of the CA I have identified.
 10. The appellant considers the decision of the local planning authority is contrary to other Council aims and objectives of supporting small businesses. The appellant has also drawn my attention to similar canopies along High Street, which I observed, and contends that there are others in various parts of Sandwell. I have not been provided with all the details relating to any of the other cases referred to and consequently cannot be sure that any are directly comparable with the appeal site. However, given the presence of an almost identical structure on one of the other buildings in the terrace that the appeal site forms part of, I acknowledge that the Council's actions appear inconsistent to the appellant. That said, I do not know if other canopies on High Street that are similar to the appeal site have been granted planning permission or not. Even if they have, the presence of what I consider to be insensitive alterations does not justify permitting further erosion of traditional features which

positively contribute to the character and appearance of the CA. Consequently, I conclude that these additional considerations, neither individually nor collectively, outweigh the substantive harm to the CA I have found.

Other Matters

11. The appellant is dissatisfied with the way the Council handled the application. Such a matter is outside the scope of the appeal, but one the appellant could pursue through the Council's complaints procedure.

Conclusion

12. For the reasons outlined above, I conclude that the appeal is dismissed.

J Williamson

INSPECTOR