



Appeal Decision

Site visit made on 8 December 2020

by Roy Merrett Bsc(Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 02 February 2021

Appeal Ref: APP/E2001/C/20/3259849

Land at Treehouse, 3 The Weir, Hessle, East Riding of Yorkshire HU13 0SB

- 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 Ashley John Hackford against an enforcement notice issued by East Riding of Yorkshire Council.
- The enforcement notice was issued on 12 August 2020.
- The breach of planning control as alleged in the notice is Without planning permission, the installation of bi-folding doors to the front elevation of the property.
- The requirements of the notice are Remove the bi-fold doors from the front elevation and return the front elevation of the building to its condition prior to the unauthorised work being undertaken.
- The period for compliance with the requirements is 6 months.
- The appeal is proceeding on the grounds set out in section 174(2)(a) and (g) of the Town and Country Planning Act 1990 as amended.

Summary of Decision: The appeal is allowed, the enforcement notice is quashed and planning permission is granted in the terms set out below in the Formal Decision.

Main Issue

1. The appeal on ground (a) is that planning permission should be granted. The main issue is the effect of the development on the character and appearance of the Hessle Conservation Area (CA).

Reasons

2. The CA is centred on the compact commercial core of the settlement, which gives way to peripheral residential streets. The Council's Hessle Town Conservation Area Appraisal 2008 (CAA) recognises the town as a thriving commercial area. It also defines its special interest as being found in evidence of its transition from a rural village to a town with suburban characteristics. The appeal site is situated on the west side of The Weir, in a prominent, busy and vibrant location near to the junction of several streets. Buildings in the locality are predominantly two storeys in height, though vary in terms of detailed design and use of finishing materials.
3. From my visit I noted that red brick, and painted brick or render are commonly featured materials along The Weir. Several buildings there have retained traditional timber features such as sliding sash windows. The immediate surroundings of the appeal site are characterised by commercial frontages at ground floor level. In the main, these frontages feature larger glazed panels, consistent with their commercial nature, with several properties, including the

- appeal building, displaying smaller paned windows at first floor level. Notable exceptions are the adjacent bank and the listed terrace further to the north at 16-22 The Weir, which also feature smaller windows with glazing bars at ground floor level.
4. No 3 The Weir appears to be in use as a bar / restaurant. The enforcement notice targets the installation of coated metal bi-folding doors to the front elevation, which are positioned either side of a central entrance door. The bi-folding doors allow for the movement of clientele between the interior of the building and a raised terrace, used for external seating to the front.
 5. It is evident from the information provided that the bi-folding doors replaced a pair of bay windows. These windows appear to have been topped by projecting ornamental features, known as cornices, with frames and glazing bars constructed in white uPVC. Despite the use of plastic, the Council say that the bay windows themselves would have formed part of the original design of the building, and also that the former windows were comprised of small panes, as evidenced by photographs, which were a distinctive characteristic of the building.
 6. In terms of the use of materials I have had regard to the CAA. This states that to preserve the character of the CA, traditional materials should be used. The use of coated metal for the doors would be regarded as a modern, rather than traditional, material. However it is significant that the windows they have replaced, which comprised plastic uPVC frames, were themselves made from a non-traditional material, such that the choice of materials, in itself, results in a neutral impact on the CA.
 7. There are a number of other factors that have a bearing on this case. I acknowledge that the Council find that the bay windows were an important feature, reminiscent of the domestic character of the original building. However in the context of the CAA, I am not persuaded that the historic residential use of properties along The Weir forms a key characteristic of the CA.
 8. In addition, it would appear that at ground floor level, neither curved (or canted) bay windows nor small paned windows with glazing bars are a prevalent building feature along The Weir. I consider that their loss, in this case, would not result in harm to the street scene, or therefore to the character and appearance of the wider Conservation Area. As set out above, I consider the occurrence of smaller paned windows at first floor level to be a more significant characteristic, and notably the first-floor windows in the appeal building have been retained.
 9. Furthermore the Council has previously granted planning permission for the use of bi-folding doors in the front elevation¹. The Council concluded, in that case, that the development would preserve the character and appearance of the CA. It is therefore important to evaluate that permission, as a potential fallback position for the appellant.
 10. I acknowledge that the approved design would have incorporated a fixed canted flank form, reminiscent of the previous bay windows, so that the resulting folding doors would not have been flush with the main front elevation

¹ Ref 17/00501/PLF

of the building, as they are at present. The design would also have incorporated glazing bars, such that the proportions would have reflected those of the previous bay windows. I recognise that, with this design, the Council has sought to achieve a compromise solution, which balances the needs of the business with a desire to limit the amount of change to the appearance of the building.

11. However notwithstanding this, as set out above, I am not persuaded regarding the significance to the Conservation Area of the curved or canted bay form with small window panes. Moreover, the design of the approved doors and windows would not have precisely replicated the more curved form of the original bay windows and cornices.
12. In addition it seems to me, from my site visit observations, that the lower parts of the approved doors and windows, had they been implemented, would have been significantly obscured from view from the adjacent street, by the presence of external seating and the glazed balustrade, constructed around the front of the property (and which the Council confirm has already been implemented, as part of the aforementioned planning permission). This would therefore serve to reduce the prominence of the projecting bi-folding doors.
13. It is also significant in my view, that the bright painted finish applied to the brickwork around the lower part of the front elevation, and which I have no reason to believe would not be permitted development, serves to draw the eye away from, and therefore reduces the visual impact of, the fenestration itself. Furthermore, whilst the Council says that the modern appearance of the development would be emphasised when the existing doors are in an open position, I consider that the alternative of the approved design would not give a significantly different impression.
14. Whilst I do not dispute that the approved scheme would preserve the character and appearance of the CA, in the circumstances I am concerned that the canted bay design would appear somewhat contrived, such that its relative contribution to the character of the CA would not be so significant. By contrast, the design and positioning of the implemented bi-folding doors gives the impression of a more genuine solution, whilst respecting the overall symmetry of the front elevation and facilitating the circulation of clientele around the premises, consistent with the vibrant character of the locality.
15. In accordance with the Planning (Listed Buildings and Conservation Areas) Act 1990 I have a statutory duty under Section 72(1) to pay special attention to the desirability of preserving or enhancing the character or appearance of the CA. Drawing all of the above findings together, including the previous use of modern materials and the questionable significance of the previous design, I conclude that the development does not result in harm to its surroundings or to the special interest of the CA as identified above. Rather it results in a neutral effect on the character and appearance of the CA as a whole, which accordingly would be preserved. To say otherwise would, in my view, be going too far in this particular case.
16. I have considered the argument that the grant of planning permission would set a precedent for other similar developments. However each application and appeal must be determined on its own individual merits and a generalised concern of this nature would not in itself justify withholding planning permission in this case. It has also been suggested that the new layout is

more likely to give rise to anti-social behaviour. However this claim is unsubstantiated and as such does not weigh against the development.

17. Accordingly the development would not conflict with Policies ENV1 or ENV3 of the East Riding Local Plan 2016 or with the National Planning Policy Framework insofar as they seek to secure high quality design that contributes to safeguarding character and pays attention to the use of local materials and architectural styles with strong association to an area's built form and the protection of the significance of heritage assets.

Conditions

18. I have had regard to the conditions imposed in relation to the aforementioned planning permission. I concur with the Council that a condition requiring the bi-folding doors to be closed, when amplified music is being played in the building, should be imposed in order to protect the amenities of nearby occupiers from noise nuisance.

Conclusion

19. For the reasons given above I conclude that the appeal should succeed on ground (a) and I shall grant planning permission for the development as described in the notice. The appeal on ground (g) does not therefore need to be considered.

Formal Decision

20. The appeal is allowed, the enforcement notice is quashed and planning permission is granted on the application deemed to have been made under section 177(5) of the 1990 Act as amended for the development already carried out, namely the installation of bi-folding doors to the front elevation of the property on Land at Treehouse, 3 The Weir, Hessle, East Riding of Yorkshire HU13 0SB, referred to in the notice, subject to the following condition:

- 1) The bi-folding doors hereby permitted shall remain closed at all times when amplified music is being played within the building.

Roy Merrett

INSPECTOR