
Appeal Decision

Site visit made on 16 March 2021

by N Thomas MA MRTPI

An Inspector appointed by the Secretary of State

Decision date: 15 April 2021

Appeal Ref: APP/T1410/C/20/3261111

Land at Old Town Service Station, High Street, Eastbourne BN21 1HQ

- 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 Ms Cathy Allen of Pricewatch Limited against an enforcement notice issued by Eastbourne Borough Council.
 - The enforcement notice was issued on 9 September 2020.
 - The breach of planning control as alleged in the notice is without planning permission, the erection of a canopy structure to the front forecourt of the land.
 - The requirements of the notice are:
 - (i) Remove the canopy structure from the front forecourt of the land and all materials and debris resulting from its removal
 - The period for compliance with the requirements is two months.
 - The appeal is proceeding on the grounds set out in section 174(2)(a), (f) and (g) of the Town and Country Planning Act 1990 as amended. 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 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 erection of a canopy structure to the front forecourt of land at Old Town Service Station, High Street, Eastbourne BN21 1HQ as shown on the plan attached to the notice.

Application for costs

2. An application for costs was made by Ms Cathy Allen of Pricewatch Limited against Eastbourne Borough Council. This application is the subject of a separate Decision.

Preliminary Matters

3. The appeal site is a filling station forecourt with two fuel pumps in front of a predominantly single storey building containing a convenience store. The forecourt was previously covered by a canopy and evidence indicates that this was removed prior to 2004. Planning permission was refused for a new canopy in 2017¹. Drawings have been provided which show that this was to be of a flat roofed design supported on columns.

¹ Ref PC/170926

4. A canopy has been installed of a different design, with a smaller footprint, supported on three columns. It has a pitched central section with a ridge running from back to front and flat roofed elements on either side, with a clock on the front elevation.

The ground (a) appeal and the deemed application

5. The ground of appeal is that planning permission should be granted for the breach of planning control as alleged in the notice. Having regard to the reasons for issuing the notice, the main issue is whether the canopy structure preserves or enhances the character and appearance of the Old Town Conservation Area (CA).
6. The CA comprises the remains of the medieval settlement of Eastbourne, which has subsequently been surrounded by the emerging town centred on the seafront in the late C19. The appeal site sits within an area of the CA that has seen considerable change in the C20, with buildings being demolished to allow for the widening of the High Street, and the subsequent building of the filling station on the appeal site, and a large supermarket on the opposite side of the road.
7. There are several historic buildings around the site, many of which are listed. They are particularly focused around the junction of the High Street with Borough Lane and Church Street, and include the Grade I listed church of St Mary, and Grade II listed buildings at Borough House, 4 Borough Lane and The Lamb Inn. There are remnants of the tighter original street pattern in the surrounding area where it has not been affected by redevelopments during the C20.
8. To the rear of the site is a brick and flint wall behind a retaining wall, with substantial mature trees visible beyond in Manor Gardens, now a public park. The imposing original manor house (The Manor House, now the Towner Art Gallery - Grade II listed) can be seen in an elevated position to the side and rear of the appeal site. Its principal elevation looks southwards over the park. These features contribute to the distinctive character and appearance of the CA.
9. The wide forecourt, fuel pumps and shop building on the appeal site are clearly modern elements in the CA, with signage, lighting and paraphernalia associated with the commercial use. The shop building is generally low profile with a combination of brick and profiled steel cladding on its elevations, and a taller element at one end of the building with a mono-pitch roof. Buildings either side of the appeal site are set closer to the road. The forecourt gives the area a sense of openness, which contrasts with the tighter street pattern nearby. Overall, prior to the installation of the canopy, the appeal site was a neutral element in terms of the character and appearance of the CA.
10. The canopy that has been installed is taller than the single storey element of the shop building, but roughly the same height as the two storey part of the building. The texture and colour of the materials are similar to the cladding used on the shop building. As a result of its pitched roof element, it has a bulkier design than a conventional flat roofed canopy, but its open sided construction and muted colours are seen against the backdrop of the existing building, the wall and the substantial tree belt. It does not therefore appear overly bulky in this context. The canopy brings the built form further forward

on the site, but is set well back from the High Street and does not appear prominent. Due to its scale and design I do not agree that it appears stark or overbearing. In the context of the filling station forecourt it does not appear incongruous. Overall, it has a neutral effect on the contribution of the site to the CA. The appellant has suggested that alternative materials could be secured through a condition, but as I have found that the development is not harmful to the CA, I have not considered this further.

11. I therefore conclude that the canopy preserves the character and appearance of the CA. It is thus not in conflict with 'saved' Policies UNT1 and UHT15 of the Eastbourne District Local Plan 2003 insofar as they seek to ensure that development preserves or enhances the character and appearance of conservation areas.

Other Matters

12. Although the Council has not raised concerns in relation to the effect on the setting of listed buildings, a number of listed buildings have been identified by the appellant² in the vicinity of the appeal site. These include the Manor House Towner Art Gallery, which is adjacent to the side of the appeal site, 4 Borough Lane and Borough House, which are all Grade II; and on the opposite side of the main road The Lamb Inn (Grade II) and the Church of St Mary (Grade I listed). The other listed buildings are further from the appeal site and are separated from it by other buildings.
13. The appellant's Heritage Appeal Statement considers the effect of the development on their settings, and concludes it is not harmful. In the context of the existing commercial appearance of the appeal site and its siting in relation to the listed buildings, I concur with the appellant's conclusion. In doing so, I have had regard to my duty to have regard to the special desirability of preserving the setting of listed buildings, under Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990.

Conclusion

14. For the reasons set out above, I conclude that the appeal should succeed on ground (a). I shall grant planning permission for the canopy structure as described in the notice. The appeals on grounds (f) and (g) do not therefore fall to be considered.

N Thomas

INSPECTOR

² Heritage Appeal Statement January 2021 by Built Heritage Consultancy 2021