



Appeal Decision

Site Visit made on 13 July 2021 by John Gunn DipTP, DipDBE, MRTPI

Decision by R C Kirby BA(Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 13 August 2021

Appeal Ref: APP/T3725/W/21/3272906

45 Brook Street, Warwick, CV34 4BL

- 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 John Martin, Dough and Brew, against the decision of Warwick District Council.
 - The application Ref W/20/0966, dated 26 June 2020, was refused by notice dated 3 November 2020.
 - The development proposed is 'erection of timber pergola to outdoor seating area with sliding canvas sunshade over'.
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Decision

1. The appeal is dismissed.

Appeal Procedure

2. The site visit was undertaken by an Appeal Planning Officer whose recommendation is set out below and to which the Inspector has had regard before deciding the appeal.

Preliminary Matters

3. The Government published on 20 July 2021 a revised version of the National Planning Policy Framework (Framework). Accordingly, and in light of the reference made to the previous iteration of the Framework within the submitted evidence, the parties have been provided with a further opportunity to make submissions in respect of the publication. In this respect, I am mindful that neither the appellant nor the Council have made any further submissions regarding the revised Framework. However, in light of this re-consultation, I am satisfied that any references made to the revised Framework within this decision would not be unreasonable to the parties.

Main Issue

4. The main issue in this case is the effect of the proposal on the setting of a grade II listed building and whether the development would preserve or enhance the character or appearance of the Warwick Conservation Area (CA).

Reasons for the Recommendation

5. The appeal site relates to a triangular parcel of land that fronts Westgate House, a modern building containing a mix of restaurant and retail uses on the ground floor and offices at first and second floors.

6. The proposal seeks to retain the existing timber pergola, with a canvas roof covering. However, the appellant has indicated the intention to carry out additional works to complete the proposed development, including treating the wood, adding planters, and finishing the roof. The completed development would sit close to the back edge of the pavement to Brook Street.
7. The CA covers a large area, including much of the town centre and Castle Park, an extensive area of open space to the south of the town. The area in which the appeal site lies is part of Warwick's historic core. Although some medieval plots remain in the area there has been considerable rebuilding and re-modelling. The western area of the CA, which includes the appeal site, has been extensively re-developed. The buildings in the immediate vicinity of the site are predominantly two or three storeys in height, utilise a wide pallet of materials and vary significantly in their design.
8. Wootton House, a late C17 or early C18 property, sits opposite the site and fronts directly onto Brook Street. To the east and set back from Brook Street is the Congregational Chapel, which was originally built in or about 1758. These properties are both grade II listed and are recognised for their architectural and historic interest.
9. Sections 66(1) and 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the Act) require me to pay special attention to the desirability of preserving or enhancing the character or appearance of a conservation area and preserving the setting of the listed building. In this respect national policy on heritage assets is set out in the Framework. At paragraph 197, it sets out matters which should be taken into account including sustaining and enhancing the significance of the heritage assets and the desirability of new development making a positive contribution to local character and distinctiveness.
10. Whilst acknowledging that the area contains a variety of buildings of different design and materials, I find that addition of the pergola structure constructed in short lived materials and covered in lightweight roofing fabric appears as a discordant feature that is prominent and obtrusive. Furthermore, it occupies a space that would previously have had an open appearance. Consequently, it appears out of context within its immediate surroundings. Harm to the character and appearance of the area occurs as a result.
11. As defined within the Framework, the setting of a heritage asset is the surroundings in which the heritage asset is experienced. Wootton House can be readily appreciated from within Brook Street, with glimpses also possible from Market Place which is located to the north. The appeal development forms part of the streetscene within which Wootton House is experienced. Whilst the Congregational Chapel is set back from Brook Street, and is of a larger scale than its neighbours, it can only be clearly seen from the southern part of Brook Street. However, it can be seen from the appeal site and there is a clear spatial relationship between it and the appeal site. As a result, the proposed development would clearly be sited in the surrounding in which both Wootton House, and the Congregational Chapel, are experienced. Consequently, and in light of my findings above, I find that there is a harmful effect on the settings of both of these designated heritage assets.
12. I acknowledge that the development was not complete at the time of my site visit and that further works have been proposed in an attempt to mitigate the impact of the it, as set out above. I have also taken into account the CGI that

was submitted with the application. However, the level of detail provided is limited and the location and scale of the planters is not shown on the site plan. Whilst noting that the appellant states that 'when complete the aesthetic of the pergola would be greatly improved with the extensive landscaping proposed', I am unable to reach the same conclusion based on the evidence that is before me.

13. The appellant has drawn my attention to details of 'similar' pergolas, and their relationship to heritage assets, which have been granted planning permission in the district. Whilst drawings of these schemes have been supplied, I find that the details of the developments, their relationship to the host building and their setting is different to the appeal proposal. As a result, I consider that they are not directly comparable to the appeal scheme. Moreover, I am not aware of the policy context in which they were determined. Consequently, I have assessed the proposal on the site-specific circumstances and the evidence before me, both in writing and from what I have seen. The presence of similar developments elsewhere does not provide justification for harmful development at the appeal site.
14. Given my findings above, the proposal neither preserves or enhances the character or appearance of the CA and has a harmful impact on the setting and therefore the significance of the listed buildings as designated heritage assets. It does not make a positive contribution to local character and distinctiveness. Whilst the harm that is caused to these designated heritage assets is less than substantial the Framework makes it clear that this harm should be weighed against the public benefits of the proposal.
15. I acknowledge that the proposal provides some shelter for customers using the outdoor seating area. I also note that there is support for the appeal proposal from the public. However, such benefits are limited given the nature of the proposal and do not amount to public benefits which outweigh the great weight that I am required to give to the harm that would be caused to the significance of the designated heritage assets.
16. For all of the above reasons, I conclude that the development does not preserve or enhance the character or appearance of the CA and has a harmful impact on the setting and therefore the significance of nearby listed buildings. Accordingly, it is contrary to Policy HE1 of the Warwick District Local Plan (adopted September 2017) (LP) which seeks to prevent developments that would lead to substantial harm to a designated heritage asset unless that harm is outweighed by public benefits. It is also in conflict with the statutory test, and the conserving and enhancing of the historic environment aims of the Framework.

Conclusion and Recommendation

17. I have found that harm is caused to the character and appearance of the conservation area and the setting of the listed buildings in conflict with the LP. The proposal conflicts with the development plan taken as a whole and there are no material considerations that indicate the decision should be made other than in accordance with the development plan. Therefore, for the reasons given, I recommend that the appeal should be dismissed.

John Gunn

APPEAL PLANNING OFFICER

Inspector's Decision

18. I have considered all the submitted evidence and the Appeal Planning Officer's report and agree with the recommendation. The appeal is dismissed.

RC Kirby

INSPECTOR