



Appeal Decision

Site visit made on 23 August 2021

by Joanna Gilbert MA(Hons) MTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 3rd September 2021

Appeal Ref: APP/N5660/W/21/3269727

The Pilgrim, 247 Kennington Lane, London SE11 5QU.

- 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 Karl Tisch against the decision of the Council of the London Borough of Lambeth.
 - The application Ref 20/04099/FUL, dated 25 November 2020, was refused by notice dated 20 January 2021.
 - The development proposed is erect retractable awnings on a pergola frame to cover the front and rear gardens.
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Decision

1. The appeal is dismissed insofar as it relates to the retractable awning on a pergola frame to cover the front garden. The appeal is allowed insofar as it relates to the retractable awning on a pergola frame to cover the rear garden at The Pilgrim, 247 Kennington Lane, London SE11 5QU in accordance with the terms of the application 20/04099/FUL, dated 25 November 2020, and the plans submitted with it, so far as relevant to that part of the development hereby permitted and subject to the following conditions:
 - 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
 - 2) The development hereby permitted shall be carried out in accordance with the following approved plans: Pilgrim Pub – 1 27.10.2020 and Pilgrim Pub Plan Reference Number TQRQM20330134142617.
 - 3) Prior to the commencement of the development hereby permitted, details of the materials of the awning; colour and pattern of the awning sheet; colour of frames; and appearance of retracting apparatus to be used in the external elevations (including RAL numbers where appropriate) shall be submitted to and approved in writing by the Local Planning Authority. The development hereby permitted shall be constructed in accordance with the approved details.

Procedural Matters

2. The Council received the Inspector's Report for the Revised Lambeth Local Plan (RLLP) on 22 July 2021. The RLLP has been found sound, subject to main modifications. Although not yet adopted, it has reached an advanced stage of development. I afford the relevant RLLP policies significant weight. The main parties have had the opportunity to comment on relevant RLLP policies and I have taken account of this in reaching my decision.

3. The National Planning Policy Framework (the Framework) was revised on 20 July 2021. The main parties have had the opportunity to comment on changes to the Framework and I have taken those comments into account.
4. Since the appeal was submitted, two further applications have been made on the appeal site. On 14 June 2021, the Council permitted an application 21/00842/FUL for the erection of retractable awnings on a pergola frame to cover the rear garden for a period of one year, while on 3 June 2021, the Council refused an application 21/00845/FUL for the temporary 3 year erection of retractable awnings on a pergola frame to cover the front garden. I have had regard to the planning permission 21/00842/FUL in reaching my decision.
5. The appellant has requested that a split decision be considered. As the proposed front and rear awnings and pergola frames are physically and functionally severable, I consider a split decision would be possible.

Main Issue

6. The main issue in this appeal is the effect of the proposed development on the character and appearance of the host building and the Kennington Conservation Area.

Reasons

7. The Kennington Conservation Area (the conservation area) draws its significance from terraced housing dating from the late 18th century onwards and the early 20th century Duchy of Cornwall Estate. Situated within the conservation area, The Pilgrim public house is a three-storey red brick building located on the corner of Kennington Lane and Montford Place. On the opposite side of Montford Place from the public house, Grade II listed 231 – 245 Kennington Lane forms a substantial, symmetrical early 19th century terrace. The rear of the appeal site adjoins part of the former Tesco car park which is currently being redeveloped for a large mixed-use development outside the conservation area. Flatted blocks on the opposite side of Kennington Lane are also outside the conservation area.
8. The public house is described in the Council's Kennington Conservation Area Statement (March 2012) as a neatly detailed Neo-Georgian public house. It retains its original frontage with a projecting timber window at ground floor level. The public house is a simple, attractive building that makes a positive contribution to the character and appearance of the conservation area. It has a front beer garden on Kennington Lane, which is laid out as hardstanding and provides an outdoor seating area partially concealed by a low brick wall with planters. Lights are strung across the front garden space. It also has a rear garden area used for outdoor seating. This rear garden is enclosed by a high brick wall and gates to Montford Place. At the time of my site visit, a canopy was stretched over the front forecourt of the public house, while the rear garden was covered by an awning on a pergola frame.
9. The proposed development would comprise retractable awnings on pergola frames to cover the front and rear gardens of the public house. The proposed front awning would be approximately 10m wide, 4.8m deep, 3.8m high at the highest point and 2.3m high at the eaves. The proposed rear awning would be approximately 11m wide, 7m deep, 3.3m high at the highest point, and 2.3m high at the eaves.

10. The proposed retractable awning and pergola frame to the front garden of the public house would obscure the public house's original frontage and would be unduly prominent and overly dominant within the conservation area. This would visually clutter the conservation area. Even if the awning was retracted, the pergola frame would remain present. Its size, siting and materials would give rise to visual clutter and would unacceptably alter views of the host building within the conservation area. Therefore, the proposed retractable awning and pergola frame to the front garden would harm the character and appearance of the host building and the conservation area.
11. It is necessary to consider whether the harm identified could be mitigated by allowing the proposed retractable awning and pergola frame to the front garden on a temporary basis. The appellant has expressed a preference for three or five years, while the Council has put forward a condition limiting it to no more than one year. I deal with this matter below. I also note that there is a difference of opinion between the Council and the appellant as to whether the proposed development would be temporary, including how swiftly pergolas could be dismantled.
12. Given its location behind a tall boundary wall and gates and adjacent to significant new development, only a small element of the proposed retractable awning and pergola frame to the rear garden would be visible from Montford Place. Given the minimal visibility from Montford Place and despite the limited detail on the plans provided, it would have little impact on the host building or the conservation area. Therefore, the retractable awning on a pergola frame to cover the rear garden would not harm the character and appearance of the host building and the conservation area.
13. I understand that the permission 21/00842/FUL was restricted to a year from the date of the permission in case of any extension of Covid-19 lockdown and associated capacity restrictions. However, as I have not found the proposed retractable awning and pergola frame to the rear garden to be harmful, it is not necessary to impose a condition restricting the duration of any permission.
14. The appellant has drawn my attention to other pergolas and awnings on other public houses in Lambeth. It was not possible to visit these public houses during my site visit as no addresses were provided and the names were not clearly visible in all instances. As it is not clear whether the public houses mentioned are in the same conservation area and have similar circumstances, I have dealt with the appeal on its own merits. While smoking shelters are also common features and other developments such as the Beefeater Visitor Centre have been granted permission locally, this does not alter my findings.
15. I recognise the economic and social importance of public houses within their communities, and acknowledge that no objections were made by interested parties. I also note that the proposed awnings and pergola frames would allow customers to sit outside, optimising use of outdoor space in poor weather and allowing for people to sit outside when meeting in buildings is restricted or not desirable, such as during the Covid-19 pandemic. It is undoubtedly the case that the pandemic has had a negative effect on a range of businesses, including public houses. Amongst other things, this has resulted in the Government introducing changes to the General Permitted Development Order to allow for Covid-19 adaptations. Even prior to the pandemic, it had been recognised by the Mayor of London, Capital Pub Check, the Campaign for Real

Ale and the Council that there had been a decline in the number of public houses operating. However, limited evidence has been provided on the proposed development's financial effect on the public house's viability.

16. The harm to the significance of the conservation area from the proposed retractable awning and pergola frame to the front garden of the public house would be less than substantial. Paragraph 202 of the Framework requires the harm to be "weighed against any public benefits of the proposal including, where appropriate, securing its optimum viable use." The appellant points out that the pandemic has undermined the business and that the proposal would help maintain the public house's viability. Although restrictions have now largely lifted, uncertainty remains as to whether pandemic restrictions will need to apply in the future. However, in my judgement, the harm would outweigh any economic public benefits, even if permission were to be granted on a temporary basis.
17. I conclude that the aspect of the development comprising the proposed retractable awning and pergola frame to the front garden of the public house would have an unacceptably harmful effect on the character and appearance of the host building and the Kennington Conservation Area. Consequently, in that regard, it would not accord with Policies Q2, Q11, Q16 and Q22 of the Lambeth Local Plan 2015 (LLP) and the same policies of the RLLP, and paragraph 202 of the Framework. These policies seek, amongst other things, development that does not unacceptably compromise visual amenity from the public realm, that positively responds to local character and heritage assets, that protects the uncluttered character of commercial forecourts, and which preserves or enhances the character or appearance of conservation areas. While the appellant refers to a range of paragraphs of the Framework, Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that a determination made under the planning Acts must be made in accordance with the development plan unless material considerations indicate otherwise.
18. However, I also conclude that the proposed retractable awning and pergola frame to the rear garden of the public house would have an acceptable effect on the character and appearance of the host building and the Kennington Conservation Area. In this regard, it would accord with the LLP and RLLP Policies Q2, Q11, Q16 and Q22 as set out above.

Conditions

19. I have specified the time limit for implementation and the approved plans for the avoidance of doubt. A condition relating to materials is necessary to ensure a satisfactory appearance. However, given the scale of development, a sample panel on site would not be necessary.

Conclusion

20. For the reasons given above, the appeal should be dismissed insofar as it relates to the retractable awning on a pergola frame to cover the front garden, but allowed insofar as it relates to the retractable awning on a pergola frame to cover the rear garden.

Joanna Gilbert

INSPECTOR