
Appeal Decision

Site visit made on 1 March 2022

by John Gunn DipTP, DipDBE, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 16 March 2022

Appeal Ref: APP/C3240/W/21/3282818

The Duke of York, 40 Market Street, Oakengates, Telford, TF2 6DU

- 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 Julian Sanders against the decision of Telford and Wrekin Council.
 - The application Ref TWC/2021/0559, dated 13 August 2021, was refused by notice dated 2 September 2021.
 - The development is described as 'External smoking areas to the frontage and side of property, fencing to the first floor flat roof area and fencing to external boundary wall to front and side'.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. I have used the description given on the original application form but have removed '(Retrospective)' as this is superfluous.
3. On my site visit I noted that the work had been undertaken to provide external smoking shelters and fencing to boundary walls at the front and side of the property. No fencing was evident on the first floor flat roof area at the time of my visit. Consequently, I have assessed the proposal based on what I saw, and the evidence submitted.
4. Notwithstanding the above, the appellant has indicated in his appeal statement that he would be prepared to vary the external appearance of the smoking shelter at the front of the property, decorate the fencing along the boundary walls and replace the upper level fencing with a rendered timber frame painted the same colour as the host property. Furthermore, he has stated that he would be prepared to consider a different design and material for the roof of the rear shelter.

Main Issue

5. The main issue is the effect of the development on the character and appearance of the area, with particular reference to its impact on non-designated heritage assets.

Reasons

6. The appeal property fronts onto Market Street. Unlike other buildings within the street, which directly abut the pavement, the host property is set back within

its site. The parties agree that the set back is between 10 and 15 metres. A narrow footpath, along the western boundary of the site, connects Market Street to a public car park located to the rear of the appeal site.

7. The properties within Market Street vary in style, age, design and condition. That said, the properties at the eastern end of the street are predominantly two storeys in height, have pitched roofs and are constructed of traditional materials. Street furniture in the locality, including bollards, cycle racks, supports for hanging baskets and fencing, are metal painted black.
8. Paragraph 203 of the National Planning Policy Framework (the Framework) requires the effect of an application on non-designated heritage assets to be taken into account in determining the application.
9. With this in mind I took particular note of the locally listed property at 1-4 Market Street, which contained a plaque with the words 'Oakengates Market 1826 Rebuilt 1869'. Although it appeared to have been considerably altered at ground floor level to provide individual shop units, it retained some of its original character. This property, The Crown Inn (also locally listed), and other buildings at the eastern end of the street, combine to make a positive contribution to the character and appearance of this part of the town.
10. Although the smoking shelter at the front of the property is located adjacent to the gable wall of the neighbouring public house it is nonetheless clearly visible from Market Street. It occupies space that would previously have been open, which would have enabled an appreciation of the front elevation of the host property. As a result of its erection, it obscures architectural features of the host property, creating an unbalanced appearance. Furthermore, I find that the use of untreated timber, has resulted in a discordant feature that is out of keeping with, and harmful, to the character and appearance of the host property and its immediate surroundings.
11. I have taken into account the appellant's willingness to vary the external appearance of the smoking shelter at the front of the property. However, for the reasons set out above I find that any structure of the size of the current smoking shelter, located at the front of the building, would have a harmful effect on the host property and the streetscene as a whole.
12. During my site visit I saw that timber fencing had been erected on top of a low wall, behind an existing ornamental metal fence, on the Market Street frontage, and part way along the public footpath. The description of the development includes reference to 'fencing to external boundary wall to front and side'. I have also noted the comments regarding the 'installation of painted timber fencing to the front perimeter railings' within the appellant's Heritage and Design and Access statement.
13. Notwithstanding the above, and despite comments by both parties with regards to these works, I find no detailed plans indicating provision of any fencing forward of the principal elevation of the host property. Accordingly, I am unable to conclude, in this regard, whether the development for which permission is sought causes detrimental harm to the character or appearance of the streetscene. Additionally, I saw that what has been erected, which potentially falls within the ambit of what was sought, is incongruous by virtue of its use of timber and unsophisticated detail, which did not complement the original ironwork fencing. There is no legitimate way for me to impose a

condition requiring a certain type or style of fencing to be erected here that I consider to be acceptable as that may be substantially different from that set out in the application.

14. The fencing to the first floor flat roof area would be in an elevated location. Whilst it would be set against a backcloth of buildings when viewed from the car park, it would be readily apparent from Market Street. Given its position, and the use of untreated timber the development, as proposed in the original application, would appear as a prominent and discordant feature. It would contrast significantly with the surrounding buildings.
15. In this regard I have taken into account the appellant's offer to replace the fencing with a rendered timber frame painted the same colour as the host property. Whilst the use of alternative materials might soften the appearance of the development, they would not fully address the concerns that I have identified above.
16. Notwithstanding the variation in ground level between the appeal site, and the car park to the south, there is only a very limited view of the rear smoking shelter. The Council has no objection in principle to this part of the development but has expressed concern about the Perspex roof. In this regard I agree with the Council. The Appellant has expressed a willingness to consider a different design and material for the roof. However, in the absence of specific proposals, I am unable to impose a condition requiring an alternative roof design, as it may be significantly different from that set out in the application.
17. In conclusion, the proposal would result in harm to the character and appearance of the area in the terms that I have described. This would be contrary to Policies BE1 and BE6 of the Telford and Wrekin Local Plan 2011 - 2031. These seek, amongst other matters, high quality design that responds positively to its context, and enhances the quality of the local built environment, without having an adverse impact upon the character, form and fabric of buildings of local interest.

Other Matters

18. The appellant refers to the need to provide fencing of a greater height to secure the safety and security of staff and customers. No evidence has been submitted to support this assertion. I find that the additional fencing provided does not significantly change the situation in this regard. It does not outweigh the harm to the character and appearance arising from the development.
19. I acknowledge the appellant's comments with regard to COVID and the potential for increased 'staycations'. Whilst this might be the case, the marquee is not part of the development before me for consideration.

Conclusion

20. For the reasons I have given, there are no relevant material considerations bearing sufficient weight to indicate a decision otherwise than in accordance with the development plan. It is for this reason that the appeal should be dismissed.

John Gunn

INSPECTOR