
Appeal Decision

Site visit made on 22 February 2022

by Elaine Gray MA(Hons) MSc IHBC

an Inspector appointed by the Secretary of State

Decision date: 13th April 2022

Appeal Ref: APP/W4705/Y/21/3288158

Smorgasbord Coffee Bar, 2-4 Rawson Place, Bradford BD1 3QQ

- The appeal is made under section 20 of the Planning (Listed Buildings and Conservation Areas) Act 1990 against a refusal to grant listed building consent.
 - The appeal is made by Mr Z Arif against the decision of City of Bradford Metropolitan District Council.
 - The application Ref 21/03003/LBC, dated 4 June 2021, was refused by notice dated 25 August 2021.
 - The works are described as 'proposed roller shutters to the front & side (retrospective)'.
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Decision

1. The appeal is dismissed.

Main Issue

2. The main issue is the effect of the works on the special interest of 2-4 Rawson Place, a grade II listed building.

Reasons

Statutory and policy context

3. Section 16(2) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the Act) requires, when considering whether to grant listed building consent for any works to a listed building, that special regard be had by the decision maker to the desirability of preserving the building, or its setting, or any features of special architectural or historic interest which it possesses.
4. Section 17 of the Crime and Disorder Act 1998 states: 'Without prejudice to any obligations imposed upon it, it shall be the duty of each authority to which this section applies (i.e. local authorities, police authorities and national parks) to exercise its various functions with due regard to the likely effect of the exercise of those functions on, and the need to do all that it reasonably can to prevent, crime and disorder in its area.'
5. The Planning and Compulsory Purchase Act 2004, at s38(6), directs that 'if regard is to be had to the development plan for the purpose of any determination to be made under the planning Acts the determination must be made in accordance with the plan unless material considerations indicate otherwise.'
6. For the purposes of this appeal, the relevant policies are: Policy EN3 of the City of Bradford Core Strategy Development Plan Document (CS), insofar as it seeks to ensure that development should not have any adverse effect upon the

special architectural or historic interest of a listed building; and CS Policy DS5, insofar as it requires development to make a positive contribution to people's lives through high quality, inclusive design by ensuring a safe and secure environment and reducing the opportunities for crime.

7. The Council's document entitled 'Supplementary Planning Document - A Shopkeepers Guide to Securing their Premises' (SPD) sets out the Council's aspiration to achieve a balance between the need for security and the need to provide attractive and welcoming streets after trading hours. I note that the appellant declines to comment on the SPD because it is not referred to in the reason for refusal. However, it is an adopted document that usefully amplifies the development plan policies. It is directly relevant to the main issue of the appeal and forms a material consideration that is to be given substantial weight.

Significance

8. Nos 2 and 4 comprise a single list entry. They occupy a prominent corner position on the junction of Rawson Place and Duke Street. Dating from 1883, they stand at four storeys in height with attic accommodation. The elevations are ashlar faced with a splayed corner feature. Architectural features include plat bands and striking pediments over first floor windows. At roof level, the eaves cornice has deeply carved consoles, and semi-circular crowned dormers are placed along the parapet.
9. On the ground floor, there is a café with large paned shop windows. Above the windows are fascia boards of a contemporary appearance. Although the shopfront openings are modern in character, they correspond visually with the bays above and retain the splayed form at ground level. To that extent, the ground floor elevation reflects the historic form of the property.
10. The listed building is a handsome and imposing commercial property which speaks to the prosperity of the later Victorian era and adds to the understanding of the architectural and historic evolution of the area. Although it has undergone various alterations, all these factors contribute to the significance of the listed building.

The effect of the works

11. The appeal scheme comprises external powder coated aluminium roller shutters to the front and side elevations on the ground floor. A cross section shows that the shutter housing is set in a space behind the fascia board, which means that it and the shutters themselves are hidden from view when the café is open. However, I saw on my site visit that the guide rails that hold the shutters in place when closed are permanently visible. Although they are painted in a matching colour, they add bulk and visual clutter that detract from the appearance of the frontages.
12. The shutters were up at the time of my site visit. However, the pictures provided show that they are painted the same colour as the rest of the frontages. Although they are perforated, their appearance is largely solid. It is therefore unlikely they would let much light spill onto the pavement, as referred to in the SPD. The shutters are readily apparent to passers-by when lowered, and give an impression of a blank facade. In combination with the guiderails, the roller shutters do little to preserve the building's special interest.

13. Given the nature and type of the external shutters, I find that the works are incompatible with the architectural quality of the building and have an adverse impact on those elements that contribute to the special architectural interest of this heritage asset. The shutters are particularly intrusive given the prominent corner location of the building, allowing wider views where the shutters are clearly visible as part of the whole elevations of the structure.
14. SPD Design Principle 4 sets out a general presumption against the use of external security measures to the principal elevations of listed buildings. Design Principle 1 places the onus on the applicant to demonstrate that they have fully considered the use of internal security measures. If such measures are not suitable, the applicant must explain why this is the case.
15. Above the window openings inside the café are large boxed-in areas concealing lintels and servicing. The appellant does not confirm whether or not it would be physically possible to place internal shutter boxes inside these large service areas. He refers to the prohibitive cost and the need to shut the café for several weeks, but does not provide any tangible evidence of these factors, for example, quotations/estimates from suitable contractors.
16. I note that there could be a potential difficulty in opening the bi-folding doors which open inward, if internal shutters were installed. However, again, there is little practical or quantifiable evidence to show that shutter boxes could not be installed above the opening windows.
17. Key to the appellant's case is the need for security at the premises. He submits a list of 11 incidents with Crime Reference Numbers and dates going back to 2007, and I have taken into account the statements detailing how the staff have been affected. However, little further details of the events are given. Crucially, it is not specified how many of the break-ins occurred through the front door. It may be that some break in attempts occurred at the back door, which is not protected by the roller shutters in question. In the absence of this information, it is difficult to be certain how many incidents can be related directly to the lack of shutters at the café.
18. The statements also refer to daytime problems arising from the presence of beggars and other individuals. However, as the shutters would presumably be open during these times, it is unclear how they could address these particular issues.
19. I have taken into account the letter dated 25 January 2021 from the West Yorkshire Police and Crime Commissioner seeking a review of the advice given in the SPD. The letter refers to a report drawn up by a District Crime Prevention Officer setting out what could be done to try and prevent more burglaries in the area. I have not been provided with a copy of this report or the date of its publication. However, the letter quotes some comments from the report, raising a number of issues relating to the security of the coffee shop.
20. Whilst I take all of these comments into account, the adopted SPD also contains direct quotations from the West Yorkshire Police Constabulary. Amongst other issues, I note that these comments refer to the deadening effect of solid roller shutters and the fact that they attract graffiti, raising the fear of crime in the street. As people avoid the street for that reason, the possibility of crime and anti-social behaviour increases.

21. Therefore, the external roller shutters may provide additional protection to parts of an individual premises, but the SPD is clear that this may be at the expense of the security, or perception of security, in the wider area. This would appear to be at odds with the aims of Section 17 of the Crime and Disorder Act 1998, which obliges authorities to take an area-wide approach. Crucially, in this case, there is a statutory presumption in favour of the preservation of the character of the listed building which is not outweighed by Section 17.
22. I have been referred to other premises in the area with external shutters. However, I cannot be certain of the planning status of these developments, which limits the weight I can give them in my consideration. In any case, they serve to demonstrate the harm of unsympathetic security solutions in the historic environment.
23. I have also had regard to the shutter at the access to the service area of the appeal building, which was allowed in 2013 (ref: 13/01488/FUL). However, this decision predates the CS, adopted in 2017, and the NPPF by some years, which lessens the weight I can afford it. Moreover, there are also examples of internal shutters in the area, and so the overall picture is of a mix of approaches.

Summation

24. Accordingly, therefore, the works conflict with the overarching statutory duty as set out in the Planning (Listed Buildings and Conservation Areas) Act 1990, which must be given considerable importance and weight, and with the National Planning Policy Framework (NPPF). In addition, the scheme conflicts with CS Policy EN3, insofar as it seeks to ensure that proposals would not have any adverse effect upon the special architectural or historic interest of listed buildings, CS Policy DS5, which seeks high quality, inclusive design, and the aims of the SPD.
25. Although serious, the harm to the heritage assets in this case would be less than substantial, within the meaning of the term in paragraph 195 of the NPPF. Paragraph 196 requires that, where there is less than substantial harm, the harm should be weighed against the public benefits of the works.
26. As noted above, the appellant makes brief reference to the physical and financial factors that might be involved in installing internal roller shutters. However, there is a lack of evidence that this possibility has been physically investigated at the building or fully costed up. I am therefore not satisfied that the appellant has complied with the SPD in terms of demonstrating that he has considered appropriately designed alternative security measures and given a robust justification as to why these would not be appropriate at the café.
27. I therefore find that insufficient public benefits have been identified that would justify or outweigh the harm I have identified to the heritage asset. The scheme therefore conflicts with the NPPF, which directs, at paragraph 193, that great weight should be given to the asset's conservation, irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance.

28. I have taken into account the representations of support for the works, but these have not led me to a different conclusion on the main issue of the appeal.

Conclusion

29. For the reasons above, the works unacceptably conflict with the development plan overall. With regard to the NPPF, I have not found sufficient public benefits that would outweigh the harm identified.

30. The appeal is therefore dismissed.

Elaine Gray

INSPECTOR