



Appeal Decision

Site visit made on 21 June 2022

by D Boffin BSc(Hons), DipTP, MRTPI, DipBldg Cons(RICS), IHBC

an Inspector appointed by the Secretary of State

Decision date: 11th July 2022

Appeal Ref: APP/R4408/F/22/3294269

5 Peel Square, Barnsley S70 2QT

- The appeal is made under section 39 of the Planning (Listed Buildings and Conservation Areas) Act 1990 as amended (the LBCA Act).
 - The appeal is made by Mr Erdal Sahan against a listed building enforcement notice (LBEN) issued by Barnsley Metropolitan Borough Council.
 - The enforcement notice was issued on 8 February 2022.
 - The contravention of listed building control alleged in the notice is:
Without Listed Building Consent, the unauthorised installation of replacement signage including new fascia signage, external menu boards and the fixing of timber plank boarding and metal railings onto the building frontage (The Unauthorised Works) shown in the photos attached in Appendix 4 of the LBEN.
 - The requirements of the notice are:
 - (i) Return the Land to its original condition, prior to the breach of Listed Building Control taking place (referenced in Appendix 5) by undertaking the following works as annotated on the first page of Appendix 4.
 - (ii) Removal of the canopy and all wooden planking and metal railings with all associated holes being filled to a professional standard utilising a colour matched (to the adjacent stonework) plastic repair mortar.
 - (iii) Removal of the current fascia signage, replacing it with the previous signage (See Appendix 5) with all associated holes being filled to a professional standard utilising a colour matched (to the adjacent stonework) plastic repair mortar.
 - The period for compliance with the requirements is 3 months.
 - The appeal is made on the grounds set out in section 39(1)(e) of the LBCA Act.
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The Notice

1. On an appeal any defect, error, or misdescription in a listed building enforcement notice may be corrected using the powers available in section 41(1)(a) of the Act, or the terms may be varied, where the correction or variation will not cause injustice to the appellant or local planning authority.
2. A canopy is shown on the photographs that form part of Appendix 4 and it is cited within requirement (ii) of the LBEN. However, a canopy is not mentioned within the description of the contravention of listed building control. Moreover, I observed that the canopy has been removed from the building. The description of the alleged contravention and the requirements of the LBEN need to correlate with each other. As such, I intend to delete the wording '*the canopy and*' from requirement (ii). The variation of that requirement relates to a matter of fact and therefore I consider I can carry it out without injustice to either party.

Procedural Matters

3. The appellant has stated, and I observed that the timber plank boarding and metal railings have been removed from the frontage of the building. Moreover, the appellant's evidence in relation to the ground (e) appeal relates to the signage. I have dealt with the appeal on this basis.
4. The appellant's evidence refers to a Heritage Assessment that was submitted as part of the listed building consent application that is cited below. However, that document does not form part of the evidence before me.

Background and relevant policy

5. The appeal property was listed in Grade II on 13 January 1986 and the list description states:

'Public house, part of row. Late C19. Ashlar. Welsh slate roof. Three storeys, three bays. Italianate style. Rusticated ground floor and quoins. Segmental-headed carriage entrance to left with voussoirs and large panelled keystone, now part-blocked with C20 doorway. Sash windows throughout. Ground floor: tripled windows to right with segmental-headed lights each with elongated, dropped, panelled keystone and apron. Ground-floor cornice. First and second floors are symmetrical. Round-arched 1st-floor windows in architraves with pilasters, carved motifs in spandrels, deep friezes and cornices. Segmental-headed second-floor windows with eared and shouldered architraves and long keystones, all on sill band. Heavily modillioned moulded eaves cornice. Parapet.'

6. The significance, architectural and historic interest of the listed building derives mainly from its high-quality architectural detailing, its historic fabric and its historic uses. The window and door openings and their architectural detailing are a significant feature of the character and architectural interest of the building.
7. The evidence before me indicates that nearby buildings are also listed in grade II and these include 1-3 Peel Square (Greggs), 1 Queen Street (Boots Opticians), 19 Market Hill (Formerly Yorkshire Bank) and 15 Market Hill (The Joseph Bramah). I have very little evidence before me in relation to the special interest/significance of these listed buildings. However, based on my observations I consider that their special interest/significance appears to be mainly derived from their age, historic fabric, former uses and architectural features. Some of these buildings are viewed together from the public realm but each one's special interest/ significance is mainly experienced from within the curtilage of that building and the adjacent highways. The elements of setting that contribute to their significance include their relationship to the highways and their immediate plots. In that context, I consider that the appeal site contributes little, if anything, to the significance of those buildings, or their settings.
8. However, the use of ashlar and the high quality of the architectural detailing within these buildings means that they have evidential and aesthetic value as a group that makes a significant contribution to the character and appearance of the surrounding area. The appellant has stated that the appeal site is within Regent Street/Church Street/Market Hill Conservation Area (RCMCA) and I have no reason to dispute this. The predominant uses close to the appeal site

are commercial. Based on the evidence before me and my observations the character, appearance and significance of RCMCA appears to be derived from the quality and architectural detailing of the historic buildings within it, their limited palette of materials, their historic commercial uses and the relationship of the buildings to each other and the areas between them. The group value cited above makes an important contribution to the character, appearance and significance of RCMCA.

9. A listed building consent application¹ for the retention of the unauthorised works was refused by the Council in October 2021. The development plan policies cited within the LBEN are Policies GD1, HE1 and HE3 of the Barnsley Local Plan (BLP). These policies are consistent with the National Planning Policy Framework (the Framework). They are material considerations which I have taken into account in reaching my decision.
10. Section 16(2) of the LBCA Act requires special regard to be had to the desirability of preserving the listed building or its setting or any features of special architectural or historic interest which it possesses. Section 72(1) of that Act requires special attention to be paid to the desirability of preserving or enhancing the character or appearance of the conservation area.

The ground (e) appeal

11. This ground is that listed building consent ought to be granted for the works.

Main Issue

12. Based on my observations and the evidence before me I consider that the main issue is whether the fascia signage and menu boards preserve the special architectural and historic interest of the listed building whether they preserve or enhance the character or appearance of RCMCA and whether the significance of the heritage assets is harmed.

Reasons

13. The appeal building is a well-preserved example of the Italianate style and has a prominent position on a pedestrianised square within Barnsley town centre. Externally, apart from the infilling of the carriage entrance, some modern additions and the deterioration of some of the ashlar, the building stands virtually as it did when it was built over 100 years ago. The modern additions include the fascia signage and menu boards that are the subjects of the LBEN. The fascia sign extends across the full width of the building and its depth fills the space between the cills of the first-floor windows and the top of the arches to the ground floor windows. There are 3 menu boards on the stonework one either side of the carriage entrance and the third on the pillar adjacent to Greggs.
14. The colours of the signage are relatively subtle in relation to the backdrop of the building's elevation. Nevertheless, their rustic appearance imparted by the use of 'timber planking' for the fascia sign and the 'frames' for the menu boards appears and would have appeared starkly at odds with the building's ornate Italianate architectural detailing. Moreover, due to the substantial depth and width of the fascia sign it inappropriately cuts across and hides much of the architectural detail associated with the arches of the ground floor

¹ Ref: 2021/0866

openings and the cills of the first-floor windows. I acknowledge that the previous signage hid the segmental arch of the carriage entrance, but the previous fascia sign was appreciably smaller in relation to its depth.

15. In addition, the 3 menu boards are a similar size to each other, and their size and positions makes them prominent additions to the building. Two of the previously installed menu boards were taller than the existing ones. However, the width of the central menu board and its frame means that it fills the whole width of the area of stonework between the carriage entrance and one of the windows. Moreover, the menu boards are externally illuminated and metal trunking for the electrical wiring extends vertically up, across different courses of the stonework, from each of the 'frames'. The overall size, materials of construction, and positioning of the menu boards and their associated trunking causes them to visually compete with and divert attention away from the building's architectural detailing.
16. In my judgement, the current signage has an appreciably greater harmful impact on the character, special interest and significance of the listed building than the previous signage. Overall, for the reasons given above I find that individually and cumulatively the unauthorised works have had an adverse effect on the special interest and significance of the listed building. Furthermore, the prominent location of the property causes the signs, despite their subtle colouring, to be excessively conspicuous on the building and in the street scene when viewed from the adjacent public square, exacerbating their harmful impact. They individually and cumulatively erode the architectural interest of this prominent historic building and the aesthetic value of the group of buildings in the surrounding area, which make a positive contribution to the significance of RCMCA. I, therefore, conclude that the works do not preserve or enhance the character or appearance or significance of RCMCA and they are in conflict with the requirements of the Act.

Other Matters

17. I have taken into consideration other signage that has been installed on nearby listed and unlisted buildings within RCMCA which have been drawn to my attention, and I observed many of those on my site visit. However, at the time of my site visit the Yorkshire Bank signage had been replaced with signs for Virgin Money. I do not know the exact circumstances of the installation of this other signage and in some instances, they too fail to preserve the special interest and significance of the heritage assets. However, the existence of other signage which fails to preserve the special interest/significance of the heritage assets does not set a precedent that should be repeated.
18. I agree with the appellant that it would be possible to repair the holes caused by the fixings which have damaged the fabric of the building. Nonetheless, this is a neutral consideration that does not weigh for or against the works.

Conclusion

19. In conclusion, I consider that the unauthorised works as a whole or in part fail to preserve the special interest of the listed building and the character and appearance of RCMCA contrary to the expectations of the Act. I must attach considerable importance and weight to these considerations when reaching my decision. I conclude that the harm caused to the designated heritage assets, is, in the context of the significance of the assets as a whole and in the

language of the Framework, less than substantial. In those circumstances, paragraph 202 of the Framework says that this harm should be weighed against the public benefits of the works including, where appropriate, securing its optimum viable use. Even though I have found that the harm to the designated heritage assets is less than substantial, it is not to be treated as a less than substantial objection.

20. I accept that signage is integral to the success of any commercial business especially for identification purposes. I have no doubt that the continued occupation of the building by the appellant's restaurant maintains the beneficial use of this listed building and helps to achieve greater economic sustainability to the town centre. Therefore, the continued viable use of this prominent listed building within RCMCA contributes to the vitality of the town centre as a whole which can reasonably be treated as public benefits.
21. However, I see no reason why alternative and effective advertising signage could not be displayed without resulting in the harm I have previously described. Indeed, it is apparent from the photographic evidence in respect of the previous signage that there are alternatives to the existing signage. Against that background there is no substantial evidence before me to demonstrate that the property would not continue to be viable as a restaurant without this particular scheme of signage in place. As such, I attach modest weight to the public benefits.
22. As a result, the weight attributable to the public benefits does not outweigh the considerable importance and great weight to be given to the harm to the significance of the heritage assets. As such, these works do not comply with paragraph 202 of the Framework and they conflict with the design and heritage aims of BLP Policies GD1, HE1 and HE3.
23. For the reasons set out above, and taking into account all other matters raised, I conclude that the appeal on ground (e) fails and listed building consent is refused.

Decision

24. It is directed that the listed building enforcement notice be varied by:
- Deleting the wording '*the canopy and*' from requirement (ii).
25. The appeal is dismissed and the listed building enforcement notice is upheld as varied. Listed building consent is refused for the retention of the works carried out in contravention of section 9 of the LBCA Act.

D Boffin

INSPECTOR