



Appeal Decision

Site visit made on 8 November 2022

by Nick Davies BSc(Hons) BTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 14th November 2022

Appeal Ref: APP/V1260/W/22/3291533

25 The Triangle, Bournemouth BH2 5SE

- 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 Aly Elsharkawy (Pondok) against the decision of Bournemouth Christchurch and Poole Council.
 - The application Ref 7-2021-16259-O, dated 19 May 2021, was refused by notice dated 7 December 2021.
 - The development proposed is installation of timber decking area and retractable fabric awnings over.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The decking area was constructed prior to the submission of the application. I am therefore dealing with the appeal retrospectively. Since the Council made its decision, the decking has been amended so that it does not project as far from the front of the building at the western end. Consequently, it does not now accord with the submitted drawings. As the amended decking has not been the subject of any consultation, I have determined the appeal on the basis of the drawings that were submitted with the application.

Main Issues

3. The main issues are:
 - a) Whether the proposal preserves or enhances the character or appearance of the Poole Hill and West Cliff Conservation Area (the CA); and,
 - b) The effect of the development on the safety and convenience of the users of the footway.

Reasons

Character and appearance of the CA

4. I have not been provided with a Conservation Area Appraisal setting out the defining characteristics of the CA. However, I saw that this part of the heritage asset is a commercial area comprised predominantly of historic 3-storey terraced buildings. There is a high degree of surviving architectural detailing, including vertically proportioned sash windows on the upper floors, with decorative plaster surrounds. Whilst the ground floors show more variety, there

are a number of surviving historical shopfronts with stallrisers, recessed doorways, and decorative timber window frames. The historic terraces to the west and south of The Triangle are arranged in sweeping curves, which frame the public realm in between. The significance of this part of the CA therefore lies in the scale and architectural detail of the historic buildings, and their highly distinctive layout, which gives The Triangle a notable sense of place.

5. 25 The Triangle displays many of these key characteristics, being part of an oval-shaped terrace of historic 3-storey buildings. Whilst it does not have a traditional shopfront, the upper floors have vertically proportioned windows with decorative plaster surrounds that are broadly symmetrical with the adjoining buildings to the west. It is, therefore, an important constituent element of the sweeping curved façade to the southern edge of The Triangle. Consequently, its scale, layout, and architectural features contribute positively to the significance of this part of the CA.
6. Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires me to pay special attention to the desirability of preserving or enhancing the character or appearance of the CA.
7. The characteristic curve of the frontage of the buildings is evident at ground floor level when looking down the street from the west. I saw that there were some A-boards on the pavement, and some chairs and tables outside some of the properties. However, due to their small scale, and transient nature, they did not significantly detract from the distinctive layout of the terrace. By contrast, the raised level of the decking, and its permanent nature, results in it being an incongruous and intrusive feature in the street scene, which interrupts the visual flow of the frontage. When viewed from the east, the deck and its handrails project noticeably beyond the façade, creating a cluttered appearance that is harmful to views into The Triangle, which are framed by the sweeping curves of the terraces on two sides.
8. It is contended that the use of natural wood in the decking is evocative of the healthy food offering provided by the business, and that it would be subservient to, rather than in competition with, the architecture of the existing building. However, the somewhat rustic nature of the timber, and the crude detailing of the deck and handrail are in stark contrast to the robust materials and fine architectural detailing that are prevalent in the surrounding historic buildings. Consequently, I find that the structure is not a positive feature in the street scene, and detracts from the historic elegance that characterises the CA. It is, therefore, harmful to the appearance of the heritage asset.
9. In coming to this conclusion, I have had regard to the other timber decks in the locality, which have been drawn to my attention. The small area of decking at 15-17 Poole Hill is of similar design and materials, but is tucked into a recess in the building frontage. Consequently, it is not such a noticeable intrusion into the street scene. The larger deck at 38-40 Poole Hill is attached to a single storey addition that already projects beyond the 3-storey plane of the main building frontage, so its impact on the street scene is not directly comparable. I have also considered the timber fascias on three shopfronts close to the appeal site. Whilst they are of similar materials to the deck, they are displayed flat on the face of the buildings, so do not have the same visually disruptive effect on the sweeping façade of the terrace. Furthermore, I have no evidence regarding

the planning history of any of these features. As a result, none of them carry significant weight in my conclusions.

10. The harm that I have identified would be limited to a relatively small part of the CA, so would be less than substantial for the purposes of paragraph 199 of the National Planning Policy Framework (the Framework). Nevertheless, paragraphs 199 and 200 state that great weight should be given to the conservation of heritage assets, and that any harm to, or loss of, their significance should require clear and convincing justification.
11. Paragraph 202 advises that, where a proposal would lead to less than substantial harm, the harm should be weighed against the public benefits of the development. In this regard, the deck facilitates ramped access from the pavement, and a number of letters have been provided from customers highlighting the need for accessibility to the premises. This is a public benefit of the proposal. However, there is no evidence to demonstrate that the premises could not be made accessible in a manner that would be less harmful to the significance of the CA. Consequently, I only attach moderate weight to this benefit.
12. The deck provides additional table space for the business that is segregated from the pavement, and therefore easier to manage. I am told that it was popular during the pandemic, and that it helps the business to successfully compete with other outlets. However, these benefits are essentially private, although there is a public benefit in the premises being occupied by a viable business, as this would help to maintain the building. Nevertheless, there is no evidence to suggest that there is any immediate prospect of the building falling into disrepair, so this potential benefit carries limited weight in my decision. The combined benefits of the proposal do not, therefore, outweigh the great weight that the Framework gives to the conservation of heritage assets.
13. In summary, the proposal would result in less than substantial harm to the CA, which is not outweighed by public benefits. The development would, therefore, be contrary to Policies CS7, CS39 and CS41 of the Bournemouth Local Plan: Core Strategy (2012) (the Core Strategy), Policy 4.4 of the Bournemouth District Wide Local Plan (2002), and Policies D4 and D7 of the Bournemouth Local Plan: Town Centre Area Action Plan (2013) (the Area Action Plan). Taken together, these policies seek to conserve the significance of heritage assets, and to ensure a high-quality, well designed public realm. The proposal would also conflict with the Framework's aim of conserving and enhancing the historic environment.

Safety and convenience of footway users

14. The appeal site lies in a relatively busy commercial area, with a range of shops and facilities bordering a roughly triangular area of public open space. There is some on-street car-parking, including immediately in front of the premises, and there is a bus stop opposite the site. There are pavements of varying widths on both sides of the road. I saw that, outside some of the businesses, A-framed advertisement boards, or small chairs and tables, were stationed on the footways. At the time of my mid-morning visit there was a steady flow of people and vehicles around The Triangle, but the pavements were not congested, and I did not witness any conflicts between cars and pedestrians, or any circumstances where pedestrians had to step into the road to make

- progress. There is no evidence to suggest that the area does not provide a relatively safe and convenient environment for pedestrians.
15. The decking has been constructed on the pavement outside the premises, reducing the width of the footway available for pedestrians. The Highway Authority's consultation reply was based on a virtual site visit, and estimated that the deck would reduce the available pavement width to approximately 1.3 metres. The measurement that I took at my site visit showed that, with the decking, as constructed, there was a pavement width of just over 2 metres. This would be reduced to about 1.8 metres if the decking were in accordance with the submitted plans. The Highway Authority indicates that street furniture and tables and chairs have been permitted in town centres provided at least 3 metres of unobstructed pedestrian paths are available. I have not, however, been directed to any development plan policies or planning guidance documents that explain where, and in what circumstances, such a width is necessary to maintain pedestrian safety and convenience.
16. In the absence of any specific evidence from the Council, I have considered the guidance on street users' needs in the government publication *Manual for Streets*¹. Paragraph 6.3.23 advises that pedestrian congestion through insufficient capacity should be avoided, as it is inconvenient and may encourage people to step into the carriageway. Figure 6.8 indicates a minimum footway of 2 metres, which is achieved at present. The deck shown on the submitted plans would, however, result in a pavement width of 1.8 metres. Figure 6.8 shows that a 1.8 metre pavement would allow two pedestrians to pass each other comfortably, without the need to step onto the carriageway, even if one was pushing a pram. Consequently, and in view of the moderate levels of pedestrian numbers that I saw, it is unlikely that the narrowing of the pavement to 1.8 metres over this very limited area, would result in levels of congestion that would force pedestrians into the road, or otherwise inconvenience users of the footway.
17. I therefore conclude that the decking would not have a harmful effect on the safety and convenience of the users of the footway. Consequently, the proposal would accord with Policies CS13 and CS18 of the Core Strategy, and Policies T2, T13 and D7 of the Area Action Plan. These policies seek, amongst other things, to promote walking and cycling, and improve the quality of the pedestrian environment.

Conclusion

18. Whilst I have found that there would be no adverse impacts on pedestrian safety or convenience, this does not outweigh the harm that would be caused to the character and appearance of the CA. Therefore, for the reasons given above, I conclude that the appeal should be dismissed.

Nick Davies

INSPECTOR

¹https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1072722/Ess_ex_Manual_for_Streets_Redacted.pdf