



Appeal Decision

Site visit made on 3 January 2023

by R Hitchcock BSc(Hons) DipCD MRTPI

an Inspector appointed by the Secretary of State

Decision date: 18th January 2023

Appeal Ref: APP/N2345/W/22/3306026

The Grey Friar, 144 Friargate, Preston, Lancashire PR1 2EJ

- 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 JD Wetherspoon PLC against the decision of Preston City Council.
 - The application Ref 06/2022/0665, dated 8 June 2022, was refused by notice dated 21 July 2022.
 - The development proposed is a pavement café to the front with fixed glazed barrier and loose furniture.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. During the course of the Council's consideration of the planning application, the proposals were amended to show a reduced height of the proposed glazed barrier. It is unclear whether this revision was the subject of re-consultation. However, as the revision shows a reduced scale of development, and the nature of any concerns of those who would normally have been consulted would have arisen from the original set of plans, I do not consider that any party's interests would be prejudiced if I take the reduced proposals into account. I have proceeded on that basis. For the avoidance of doubt, the relevant plans considered were AP01 and AL02 B.
3. The site lies close to 35-36 Friargate, a Grade II Listed Building. There is no dispute between the main parties that the proposed development would not have an adverse effect on the setting of the Listed Building. Pursuant to the duty under s66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990, having considered the proposal and visited the site I concur with that view. This is because of the varied appearance of buildings and frontages in the locality, and the intervening distance and road. Accordingly, it is my view that the development proposed would preserve the setting of the designated heritage asset and I shall make no further reference to this matter.
4. At the time of my site inspection, Friargate was closed to traffic due to roadworks taking place along its length and at the junction with Ring Way. As the nature of the works, or their implications for the assessment of the effects of the development were unclear on the ground, I have consulted the main parties for their further comments on this matter. I have taken their responses into account when reaching my decision.

Main Issues

5. The main issue is the effect of the proposal on the character and appearance of the locality.

Reasons

6. The site is a hard and soft landscaped area adjacent to a main entrance of a modern building close to the junction of Friargate, a street of traditional retail and commercial buildings, and Ring Way (A59), a main route through the city centre. The Grey Friar, a public house with a dual frontage, is set back from the main line of the façades on Friargate which consistently form the back of the pavements on either side of the road.
7. In the locality of the site, Ring Way features more dispersed, larger scale development of varied ages and architectural styles. The road corridor is wide and ongoing works at and about the junction with Friargate aim to provide improved linkages between parts of the city centre dissected by the A59, particularly for cyclists and pavement users. This includes the partial pedestrianisation of Friargate and streetscape enhancements to the public realm.
8. A previous planning permission¹ permitted the use of a smaller part of the public area for outside drinking and dining fronting on to Friargate. This relates to a level paved area between existing landscape planters and the pavement skirting the site. Its use currently involves the installation of tables, chairs and a fringe barrier which are removed later in the day.
9. The proposals would require the removal of the existing masonry landscaping feature consisting of established shrub and bush planting with informal edge seating incorporated. It would utilise the resultant levelled area and extend to cover the area to the back of the main pavement on both frontages. This area is presently defined by a change in surface materials and bollards on the Friargate frontage. Together this would offer a significantly increased capacity for outside seating from the 28 covers granted in 2011 to some 78 on the Council's estimation.
10. It is proposed to delineate and enclose the outer boundary of the area with a permanent 1.2m high barrier consisting of glazing set between galvanised steel stanchions and framing. A number of planters would be located on the internal side of the barrier and against an adjacent stepped access. As at present, tables and chairs would be removed overnight.
11. The appearance of the barrier would be largely utilitarian and, despite its light-touch design aimed at minimising its impact on the streetscape, it would be a conspicuous feature by its continuous length, height, form and construction. In the context of the County Council's works to achieve an open and permeable area that seeks to avoid overly defining areas for one user over another, the barrier would appear visually intrusive in a prominent location. It would contrast starkly with the more subtle and unobtrusive design of the street-works. It would not be a positive element in the intended design ethos of the streetscape.

¹ Planning permission Ref. 06/2011/0705

12. Furthermore, it would visually compartmentalise the area as semi-private space annexed from the remainder of the public realm. To a limited extent it would reduce the sense of openness at the junction. Alongside the removal of seating currently available to public users on the outward fringes of the planters, it would discourage general use of the area by other members of the public. It would thereby limit the sense of inclusivity in a locality identified as a key linkage between areas of the city centre.
13. I recognise that the street works are aimed at encouraging public activity, including alfresco dining. However, there is little before me to indicate any operational necessity for the barrier. Save to negate the need to install and remove a temporary barrier currently used, there is little to demonstrate its requirement to facilitate the unchallenged increased use of the area.
14. The appellant contends that the proposed barrier would be comparable in appearance to one granted by the Council in 2011. However, that barrier was about half the length of the one now proposed. It was approved in a position set within the site and did not involve the removal of the existing landscaping area. Had it been installed, it would not therefore have had the same presence or degree of prominence as the proposal before me.
15. Furthermore, that decision pre-dated the current planning policy regime both in terms of the local development plan and national policy, which provide a strong emphasis on design quality. It is not therefore a strong argument in favour of a development identified to cause harm.
16. The design of the adjacent buildings at 143 and 144 Friargate have greater affinity to the larger scale modern buildings on Ring Way than those on Friargate. They incorporate large areas of single material surfacing, including glazing and metal cladding. The removal of the established planting in lieu of small-scale planters would present a significantly harder edge to the built form at this prominent corner.
17. Notwithstanding the Council's proposals for street trees on Friargate, I am not persuaded that the proposed landscaping elements would give rise to the same degree of visual softening of those closest elements of the built environment. Nor would they adequately mitigate for the loss of the existing landscaping. This would be detrimental to the quality of the street scene in an area identified for environmental improvement, including attempts to green the streetscape.
18. Taking all of the above together, I find the proposals would fail to achieve a high quality design and make a positive contribution to the public realm in this prominent location. Along with the loss of existing landscaping, the introduction of the enclosure would be detrimental to the character and appearance of the locality. It would conflict with Policy 17 of the Central Lancashire Core Strategy [2012], Policy EN9 of the Preston Local Plan 2012-2026 [2015] and Policy SP1 of the Preston City Centre Plan [2016] as they seek high-quality design sympathetic to surrounding development, enhancement of the built environment and integrated landscaping to make a positive contribution to the character of the area and reflect local distinctiveness.

Other Matters

19. There is no dispute that the use of the site as a sitting out area would contribute to achieving animation and interactions in the street scene. It could

assist in supporting the existing business, securing its viability and offering an opportunity to expand and meet greater demand for outdoor facilities. This has greater significance since the restrictions imposed during the Covid-19 pandemic and the subsequent inclination for some to prefer outside venues.

20. The expansion of the seating area could enhance the vitality and viability of the area and meet a stated aim of the environmental enhancement works. I accept that there could be some benefits therein, however, there is little to demonstrate that this would be dependent on the presence of a permanent barrier, could not be achieved without removal of important landscaping or the inclusion of larger scale mitigation landscaping. Moreover, there is limited evidence to show that any economic benefits would be significant or outweigh the identified environmental harm.

Conclusion

21. For the reasons above, I find that the proposal would harm the character and appearance of the area and would conflict with the development plan taken as a whole. There are no material considerations that indicate the decision should be made other than in accordance with the development plan. Therefore, I conclude that the appeal should not be allowed.

R Hitchcock

INSPECTOR