



Appeal Decision

Site visit made on 28 November 2022

by Graham Wraight BA(Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 15 February 2023

Appeal Ref: APP/C4235/C/22/3304622

Unit 3A Demeter Buildings, Brighton Road, Stockport SK4 2BE

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended. The appeal is made by Mighty Micro Manchester Limited against an enforcement notice issued by Stockport Metropolitan Borough Council.
 - The notice was issued on 19 July 2022.
 - The breach of planning control as alleged in the notice is Without the benefit of planning permission, addition of razor wire and metal spiked bars to the roof of the building.
 - The requirements of the notice are to Remove the razor wire and metal spike bars, including all support bars and brackets from the roof of the building.
 - The period for compliance with the requirement is three (3) months.
 - The appeal is proceeding on the ground set out in section 174(2)(a) of the Town and Country Planning Act 1990 as amended. Since an appeal has been brought on ground (a), an application for planning permission is deemed to have been made under section 177(5) of the Act.
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Decision

1. It is directed that the enforcement notice is varied by the deletion of three (3) months and the substitution of six (6) months as the time for compliance.
2. Subject to the variation, the appeal is dismissed, the enforcement notice is upheld and planning permission is refused on the application deemed to have been made under section 177(5) of the 1990 Act as amended.

Applications for costs

3. An application for costs was made by Mighty Micro Manchester Limited against Stockport Metropolitan Borough Council. This application is the subject of a separate Decision.

Main Issue

4. The main issue is the effect of the development on the character and appearance of the host building and the area.

Reasons

5. The appeal submission includes a proposal that the razor wire and metal bars be screened by the addition of vertical cladding to the eaves that would conceal them from view. Screening along the north elevation formed part of a previous planning application proposal¹ but there was no such proposal of screening for the western elevation. A subsequent appeal² was dismissed due to the impact upon the character and appearance of the area and the impact on the outlook

¹ DC/081372

² APP/C4235/W/21/3289763

from apartment blocks adjacent to the appeal site from the unscreened western elevation. In reaching their decision, the previous Inspector did however consider that the screening of the northern elevation would be successful in reducing the harmful visual impact of the development. The current appeal proposal seeks to use more comprehensive screening to address the previous dismissal.

6. An appeal under ground (a) is brought on the basis that, in respect of any breach of planning control which may be constituted by the matters stated in the notice, planning permission ought to be granted. The proposed erection of the screening does however extend beyond the matters described in the notice, which refer solely to the addition of razor wire and metal spiked bars to the roof of the building. Furthermore, the screening would represent a substantial amount of new development and one which would be materially different to the development described on the enforcement notice. Consequently, the deemed planning application arising from the appeal on ground (a) does not include the screening. I have therefore considered just the razor wire and metal spiked bars, as cited in the notice.
7. The appeal property is an industrial building located on a small estate of similar buildings and adjacent to a large car dealership. It also shares a common boundary with dwellings that are arranged in a linear form along Didsbury Road, and there are several apartment blocks located in close proximity to it. Notwithstanding that the area has a varied character and appearance, by reason of their harsh visual appearance and prominence from a number of vantage points, the razor wire and metal spiked bars are incongruous additions and have caused significant harm to the character and appearance of both the host building and the area. Furthermore, they are clearly visible from nearby residential properties, which compounds the harm caused and was a specific concern raised in the previous appeal decision.
8. I have considered whether the harm arising from the development could be mitigated with planning conditions. However, the only firm proposals before me concern the additional cladding. Yet this would be a significant addition to the building in its own right and neither party has demonstrated that it would amount to permitted development or not require planning permission for any other reason. Furthermore, even if planning permission were sought for the additional cladding, I cannot assume that it would be granted. In these circumstances, a planning condition requiring the cladding would not be appropriate.
9. For these reasons, I conclude that the works which compromise the screening extend beyond the matters that are stated in the notice. Accordingly, they do not fall within the statutory power I have to grant planning permission as part of a ground (a) appeal. Without the screening, the significant harm to the character and appearance of the host building and the area would remain, and the development fails to accord with Policy SIE-1 of the Core Strategy DPD 2011, where it seeks to protect character and appearance. There would also be a conflict with the National Planning Policy Framework where it aims to achieve well-designed places.

Other Matters and Period for Compliance

10. The development has been installed in response to recurrent break-ins and thefts that the business has experienced. Various other measures have been

tried, including staying at the unit overnight which is not sustainable in the long run and putting security grills over skylights which has not been successful in preventing entry via the roof. I am told there are not the resources to employ a security guard and there are safety implications if people fall from the roof as there is an electricity substation next to the unit. If planning permission is not granted, the appellant states that the business will have to leave the area and that the people employed at the business would no longer have a job.

11. While these are clearly important considerations, they do not outweigh the significant harm to the character and appearance I have found. But, in the circumstances of the case that is before me, I consider it appropriate to extend the period of compliance on the enforcement notice using my powers under s176(1)(b) of the Act. I sought the views of both parties on this matter and am satisfied that an appropriate extended period would not cause injustice to either party. Making such a change will allow a longer period for the appellant to explore whether there are other, less visually harmful ways to address the security concerns, whether comprised of physical works, technology or other solutions. On the other hand, I am mindful of the need to address the harm arising from the breach of planning control without undue delay. In my judgement a period of 6 months would strike an appropriate balance and I will vary the notice accordingly.

Conclusion

12. For the reasons given above, I conclude that the appeal should not succeed. I shall uphold the enforcement notice with a variation and refuse to grant planning permission on the application deemed to have been made under section 177(5) of the 1990 Act as amended.

Graham Wright

INSPECTOR