



Appeal Decision

Site visit made on 21 February 2023

by Ms Watson BA(Hons), MCD, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 03 March 2023

Appeal Ref: APP/K0235/C/21/3284774

Land known as 2 Bromham Road, Bedford, Bedfordshire, MK40 2QA

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended. The appeal is made by Imaan & Co (Estates) Ltd against an enforcement notice issued by Bedford Borough Council.
- The notice, numbered 19/00256/UNDEV, was issued on 9 September 2021.
- The breach of planning control as alleged in the notice is: Without planning permission, the creation of a new entrance and insertion of a new doorway in the front elevation of the property, the erection of a single storey flat roofed structure and the erection of a steel and polycarbonate shelter on the site of the former beer garden to the rear of the property and the addition of timber cladding to the boundary wall fronting Gwyn Street.
- The requirements of the notice are to: i) remove the new entrance door created in the front elevation; (ii) reinstate the frontage to exactly match its former appearance as shown in the photograph attached to Appendix 1 (of the Enforcement Notice) with materials to exactly match those on the remainder of the shopfront; remove the single storey flat roofed structure at the rear hatched in green on the attached plan; remove the steel and polycarbonate shelter attached to the boundary wall with number 4 at the rear; (v) remove the timber cladding to the boundary wall fronting Gwyn Street; (vi) remove all resulting waste and debris from the land and (vii) reinstate the land to its condition prior to the works being carried out as shown in the photograph attached as Appendix 2 (of the Enforcement Notice)
- The periods for compliance with the requirements are: i)–vi) 3 months and vii) 6 months.
- The appeal is proceeding on the grounds set out in section 174(2)(a), (f), (g) 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.

Summary Decision: The appeal is dismissed and the enforcement notice is upheld with corrections in the terms set out below in the formal Decision.

The Notice

1. The notice alleges that there is “timber cladding” to the boundary wall. However, the allegation in this respect is wrong as the boundary wall has been rendered. In their submissions, both parties accept that the wall has been rendered rather than timber clad and the ground (a) appeal seeks planning permission for the render. As both parties accept that the breach is in fact the application of render rather than the application of timber cladding, and have made their cases on that basis, there is no injustice for me to correct the notice in this respect.

The appeal on ground (a)

2. The main issue is whether the development preserves or enhances the character or appearance of the Bedford Conservation Area, and the effect of the door on the appearance of the building itself.

3. The appeal site is a pub located within sub-area 7 of the Bedford Conservation Area. This area is characterised by a mix of commercial and residential uses. Remnants of historic high-status housing survive and there are also good examples of small scale early commercial buildings. Buildings vary in scale but are mainly 2-3 storeys high and generally front directly onto the highway. Materials include red and soft yellow-grey stock bricks, and there are two grand terraces which are particularly notable: Albert Terrace and Priory Terrace which have stuccoed facades. The significance of the conservation area derives from the historic development of Bedford and numerous buildings of high-quality architecture.
4. The pub building itself was built in the 1930s by the Bedford brewery Charles Wells in a Queen Anne style. It forms part of the inter-war "Improved Pub Movement" which aimed to make pubs an integral part of the community and thereby encouraged sensible drinking. The front façade has a strong sense of symmetry although the original front door is off centre. It has a Queen Anne roof with dentilled eaves and square set chimneys with sash windows to the first floor. The ground floor has wide multi paned windows with a central bow and the lower section is covered in green tiles. Pilasters surround the original doors on the front and side elevations. The Bedford Conservation Area Character Appraisal describes it as a non-designated heritage asset. The pub's significance is derived from its community value and its architectural detailing and craftsmanship. It makes a positive contribution to the character and appearance of the conservation area.
5. The unauthorised doorframe has broken into the original window which is made obvious by its thick frame which is at odds with the fine glazing bars of the original window. In addition, the multi paned window in the door does not follow the lines or dimensions of the original panes and glazing bars. It has also resulted in the removal of a section of the green tiles which are a striking feature of the facade. The plastic "stick on" tile effect does not compensate for the loss of fabric. The door spoils the flow and symmetry of the gently curving bay window. It thereby harms the significance of the building.
6. The unauthorised structure at the back of the yard is of an unattractive construction with a flat roof and elevations consisting of roller shutters and tiled cladding. In addition, there is a polycarbonate "lean-to" type structure projecting above the flat roof which appears to be joined to No 4. The structures occupy virtually the whole of the yard area. Overall, the design, shape, form, materials and general standard of construction have an excessively rudimentary and unattractive appearance.
7. The boundary wall was a traditional red brick wall which is typical of the conservation area and was sympathetic with the materials of the appeal building. Whilst I accept that there are other examples of render in the area, the application of the render obscures the original fabric of the boundary wall and has an incongruous modern appearance against the pub building.
8. Painting the wall and roller shutters and changing the tiled cladding would not sufficiently alter the appearance of the buildings or wall and would not overcome the obscuring of the original wall's fabric. Screening with plants and trellis would not be an acceptable solution. The addition of trellis would be a further obtrusive structure within the street-scene. Furthermore, buildings can generally be seen behind plants. In any event, there is very little space for any

meaningful landscaping. Therefore, the use of conditions would not overcome the harm.

9. I note the appellant's reference to the multi-storey car park, the petrol station and other buildings behind the site but these are not in the conservation area and their existence does not justify the poor appearance of the unauthorised works.
10. I find that the door, the render and the rear structures neither preserve nor enhance the character or appearance of the conservation area and the door harms the appearance of the building itself. All three parts of the development are obvious in the street scene, however, they affect only a small part of the conservation area. Therefore, I consider that the harm to the significance of the conservation area to be less than substantial.
11. Paragraph 199 of the National Planning Policy Framework (the Framework) advises that when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation. This is irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance. The Framework advises that less than substantial harm must be weighed against the public benefits of the scheme.
12. The appellant has argued some benefits in relation to the door. The door gives access through the building, via a passage, to a rear yard which houses the external staircase up to the entrance to the upstairs flats. The appellant argues that accessing the external staircase through the unauthorised door, a passage, and then another door out to the back yard, is a better arrangement than walking directly through the back yard to the staircase. They say that there is a security and convenience conflict between the commercial and residential uses and that this hinders the successful letting of the building, and therefore, according to the appellant, this arrangement represents a public benefit by increasing the chances of the building being kept in use.
13. Despite this argument, I saw at my visit that it is currently impossible to get to the external staircase via the back yard using the Gwyn Street entrance as this is blocked by the unauthorised structures.
14. Whichever way the occupants get to the flats, they have to enter the yard to get to the external staircase. The route through doorway is convoluted. No public benefits have been advanced in relation to the wall or rear structures. Therefore, I consider there to be no public benefits to outweigh the less than substantial harm caused to the conservation area.
15. I conclude that all of the unauthorised development harms the significance of the conservation area and harms the building itself. Therefore, it conflicts with Policies 28S, 29, 30 and 41S of the Bedford Borough Local Plan. In combination, these policies seek to ensure that design is of a high quality, integrates well with the surrounding area, promotes local distinctiveness, and that the effect on heritage assets is considered.

The appeal on ground (f)

16. For the appeal to succeed on this ground, I need to be satisfied that the steps required to comply with the requirements of the notice are excessive and lesser

steps could overcome the breach of planning control or, as the case may be, the injury to amenity.

17. It is clear from the requirements of the notice that its purpose is to remedy the breach of planning control. The appellant has suggested lesser steps in the form of their suggested conditions as part of the ground (a) appeal. However, modifying the development in such a way would not remedy the breach. In any event, I have looked at the suggested conditions under ground (a) and the proposed modifications would not remedy the harm to the conservation area.
18. Accordingly, the appeal on ground (f) must fail.

The appeal on ground (g)

19. The appeal on ground (g) is that the periods for compliance with the notice fall short of what is reasonable. The appellant argues that they are involved in a legal dispute with a tenant, preventing access to the property, and that the dispute might take many months to be resolved. However, I have no substantive evidence of the existence of the tenancy, the dispute or the timescales involved. In addition, significant time has passed since the appeal was made anyway. Furthermore, section 179(3) of the Act provides that "in proceedings against any person for an offence under subsection (2), it shall be a defence for him to show that he did everything he could be expected to do to secure compliance with the notice". It is important to remedy the harm without any undue delay, therefore, the appeal on ground (g) fails.

Formal Decision

20. It is directed that the enforcement notice be corrected under (i) in Schedule 3 and under (v) in Schedule 5 by deleting the words "timber cladding" and substituting "render" in both places.
21. Subject to these corrections, 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.

Ms Watson

INSPECTOR