
Appeal Decision

Site visit made on 23 March 2023

by A A Phillips BA(Hons) DipTP MTP MRTPI AssocIHBC

an Inspector appointed by the Secretary of State

Decision date: 27 April 2023

Appeal Ref: APP/W4705/C/22/3312260

38-42 Mannville Terrace, Bradford BD7 1BA

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991.
- The appeal is made by Mr Zahir Khan against an enforcement notice issued by City of Bradford Metropolitan District Council.
- The enforcement notice was issued on 20 October 2022.
- The breach of planning control as alleged in the notice is the installation of two external extractor flues to the south-west facing (rear) elevation of the building on the land.
- The requirement of the notice is to remove the two unauthorised external extractor flues and all means of fixing from the south-west facing (rear) elevation of the building on the land.
- The period for compliance with the requirements is six calendar months.
- The appeal is proceeding on the grounds set out in section 174(2) (a) of the Town and Country Planning Act 1990 as amended.

Summary of Decision: The appeal is dismissed and the enforcement notice upheld.

The appeal on ground (a)

1. The ground of appeal is that planning permission should be granted. The main issues are:
 - i. the extent to which the two external extractor flues would preserve or enhance the character or appearance of the Little Horton Conservation Area; and
 - ii. the effect on the living conditions of the occupants of neighbouring residential properties with particular reference to noise.

Preliminary Matter

2. As the development is in a conservation area, I have had special regard Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 in that, with respect to any buildings or other land in a conservation area, special attention shall be paid to the desirability of preserving or enhancing the character or appearance of that area.

Reasons

3. The appeal site is an end of terrace three storey building situated at the Morley Street end of Mannville Terrace and it stands in an elevated position adjacent to the main road. The property is used as a restaurant and over the years it has been extended and altered in various ways. The rear (south west facing) elevation exhibits prominent flues and there is a range of other commercial

paraphernalia such as discarded cooking oil cans and waste bins in the immediate vicinity. The property is situated in a mixed use area with a range of commercial uses fronting onto Morley Street, some of which seem to be used for residential purposes on the upper floors and there are also residential properties adjacent to the site.

Historic Environment

4. The unique character of the Little Horton Conservation Area stems from the survival of historic buildings, trees, green open spaces, traditional stone walls and stone paving alongside interaction between these elements. There are a number of key facets which contribute to the historic interest of the area, including its historical development which reflects the social hierarchy of the time, ranging from some large, ornate houses of early industrialists and smaller houses and cottages of labourers and textile workers, with the amount of space associated with each dwelling reflecting its status. There is an overall unified street scene throughout the area with the wide survival of stone flags, setts and kerbs, with the edge of the public spaces defined by traditional stone boundary walls. There are some areas where mature trees are prominent and garden spaces and green open areas underpin the original rural hamlet character and setting of Little Horton Green.
5. Almost all buildings, walls and other structures in the Conservation Area are constructed of locally quarried sandstone. Stone slates are also the common roofing material. Doors and windows are traditionally made of painted timber. Virtually all buildings in the conservation area are in the vernacular style which is unique to this region and reflect the fact that most of the buildings were built in the seventeenth, eighteenth and early nineteenth centuries. Detailing varies across the area, depending on the age and original status of the building.
6. The external extractor flues in question are approximately 0.4 metres in diameter and terminate approximately 0.9 metres above the eaves. They are particularly large in their historic context and, being constructed of steel they contrast greatly with the historic surroundings. Both features are highly visible from the rear access and from Morley Street and are prominent within the street scene, constituting visually incongruous and unsightly commercial additions to the building.
7. The development has been implemented with little, if any, consideration of the visual appearance of the area and the character of the Conservation Area. They are wholly discordant with their historic surroundings and conflict greatly with the materials, vernacular style and detailing of buildings exhibited in the locality. As such, the development fails to pay special regard to the desirability of preserving or enhancing the character or appearance of the Conservation Area. I find the harm to be less than substantial in this instance but nevertheless of considerable importance and weight.
8. Under such circumstances, the Framework advises that this harm should be weighed against the public benefits of the works. The appellant submits that the restaurant was established more than 40 years ago and is very popular. It has been modernised in recent years providing additional dining areas to cater for the increased number of patrons and consequently, the kitchen facilities have been altered, accordingly. The external extractor flues are required to meet health and safety regulations as the original flue was inadequate. It is contended that the only option available was to install the external flues. I

accept that they were installed by professionals in order to comply with legislative requirements.

9. I can also see that the development has facilitated improvements to the restaurant facilities and has enabled the expansion of the business to meet local demand; however, there is insufficient evidence before me that health and safety requirements could not have been addressed by an alternative scheme having less impact on the external appearance of the building and its Conservation Area surroundings.
10. Therefore, given the above, I conclude that the works have a harmful effect on the special architectural and historic interest of the listed building and this would not be outweighed by public benefits. This would fail to satisfy the requirements of the Act, the Framework and would conflict with Policies DS1, DS3, EN3 and SC9 of the Local Plan for Bradford – Core Strategy Development Plan Document Adopted July 2017 (the CS). Among other objectives the development plan policies seek to ensure that development achieves good design and high quality places throughout, developments should be appropriate in their context and the Council will work to proactively preserve, protect and enhance the character and appearance of the District’s designated heritage assets and their settings.

Living Conditions

11. The appeal site is immediately adjacent to a number of residential properties. In order to mitigate against potential harm to the living conditions of residential occupants it is my understanding that the flues are fitted with silencers and are installed on anti-vibration mounts. The appellant has sought to address the concerns of the Council and local residents concerns by submitting a Noise Impact Assessment with the appeal.
12. The noise assessment has considered the effect of the kitchen extraction plant on the closest residential apartment at Mannville Terrace during the daytime and night-time periods and is based on the current condition of the external extractor flues, including the silencers and anti-vibration mounts. It is my understanding that noise monitoring was undertaken at one metre from a first-floor window at the rear façade of Mannville Terrace for a continuous period of time during November 2022. This location is representative of the closest residential apartments to the kitchen plant. The evidence before me shows that the survey, and subsequent assessment work, have been undertaken in accordance with appropriate current standards and guidance.
13. The BS 4142 noise assessment during the existing operation of the kitchen plant during the daytime and night-time periods is at the complaints likely level. This represents the current situation and shows that the existing arrangements are likely to result in complaints with respect to adverse noise conditions and effect on the living conditions of residential occupants. This reflects the concerns expressed by the residents of nearby residential properties.
14. Further assessments have been carried out with different panel enclosures which seek to reduce noise effects. The BS 4142 assessments have been conducted with a standard panel enclosure during the daytime and night-time periods are at the low impact and below adverse levels. With an upgraded acoustic panel enclosure, BS 4142 assessments have been conducted during

the daytime and night-time periods and show that noise levels are at the low impact level.

15. Therefore, the assessment shows that noise criteria in the West Yorkshire Planning Consultation Guidance – Noise and Vibration 2016 is not met during the existing operation of the fans and with the standard panel during the night-time period. All of the criteria are met with the upgraded panels.
16. The standard panel acoustic enclosures are 50mm thick (standard) or 100mm thick (upgraded) stainless steel panels lined with mineral fibre acoustic infill. The upgraded panels incorporate air inlet acoustic louvres, air discharge attenuators and acoustic panels. The air inlet louvres are fabricated from two sheets of galvanised steel into which are inserted galvanised steel blades, the air attenuators comprise a rectangular box fabricated of galvanised steel with equipment designed to increase noise reduction levels and the acoustic panels are constructed of thick galvanised sheet steel. No drawings of noise attenuation enclosures have been submitted; however, given the descriptions provided, the materials, scale and design of the equipment would be likely to have a commercial and utilitarian appearance and would increase the overall bulk and massing of the external extractor flues that have already been installed.
17. There is evidence that the noise output of the extractors could be reduced to acceptable standards, but there would be inevitable consequences with respect to the effect on the appearance of the external elevation of the host property and the character and appearance of the Conservation Area. In the absence of detailed drawings I am not persuaded that the noise attenuation solutions proposed would not have unacceptable effects on the historic environment. Therefore, they would be likely to fail to preserve or enhance the character or appearance of the Conservation Area.
18. Therefore, in these specific circumstances and based on the evidence before me I conclude that the development has an unacceptable effect on the living conditions of the occupants of neighbouring residential properties with particular reference to noise. Therefore, there is conflict with Policies DS5 and EN8 of the CS. Among other objectives, these seek to ensure that developments should not harm the amenity of existing residents and proposals for development must identify potential noise issues arising from the nature of the proposal.

Other matters

19. The appellant has drawn my attention to other nearby commercial premises which external flues and that planning permission has been granted for these. However, I do not have the specific details of these cases and the circumstances that may have led to permission being granted. As such they attract very limited weight in this case. In any case the ones I observed at my site visit serve to show the harm that can result from unsuitable and poorly conceived developments in the Conservation Area.
20. I also understand the commercial consequences of the Covid-19 pandemic but do not see that this can justify such a harmful form of development in this case.

21. In the light of the above I conclude that the appeal on ground (a) should not succeed and that the deemed application should be refused.

Formal Decision

22. The appeal is dismissed and the enforcement notice is upheld. Planning permission is refused on the application deemed to have been made under section 177(5) of the 1990 Act as amended.

A A Phillips

INSPECTOR