
Appeal Decision

Site visit made on 15 August 2023

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

an Inspector appointed by the Secretary of State

Decision date: 31 August 2023

Appeal Ref: APP/Z4718/F/22/3311528

Istanbul Restaurant, 74-76 John William Street, Huddersfield HD1 1EH

- The appeal is made under section 39 of the Planning (Listed Buildings and Conservation Areas) Act 1990 as amended by the Planning and Compensation Act 1991.
 - The appeal is made by Mr Hasan Kurt of Istanbul Restaurant against a listed building enforcement notice issued by Kirklees Metropolitan Borough Council.
 - The enforcement notice was issued on 6 October 2022.
 - The contravention of listed building control alleged in the notice is an alteration to the exterior of the building's ground floor shop frontage, consisting of the affixing of advertisement boards to the fascias.
 - The requirements of the notice are:
 - a) Dismantle and permanently remove all advertisements from the ground floor fascias of the shop frontage, including the mounting boards (as shown on Photo 1 attached to this notice).
 - b) Repair any damage to the shop front of the building (caused by the affixing of the advertisements) following the removal of the mounting boards and fixings into the timber fascia shop frontage.
 - The period for compliance with the requirements is:
 - 1) To complete step (a) above – 60 days.
 - 2) To complete step (b) above – 60 days.
 - The appeal is made on the grounds set out in section 39(1) (c) and (e) of the Planning (Listed Buildings and Conservation Areas) Act 1990 as amended.
-

Decision

1. The appeal is dismissed, and the listed building enforcement notice is upheld, and listed building consent is refused for the retention of the works carried out in contravention of section 9 of the Planning (Listed Buildings and Conservation Areas) Act 1990 as amended (the Act).

The appeal on ground (c)

2. The ground of appeal is that the matters alleged in the Notice do not constitute a contravention of section 9(1) or (2) of the Act. The appellant's argument is that the current signage is comparable to previous signage which was in place for many years; implying that the current signage is not a contravention.
3. It is my understanding that the building has had different fascias and signage over the years that have been sympathetic to the listed building and its special features. The building has a large and prominent frontage which previously had dark coloured panelling with silver lettering and decorative elements on a black background. The current façade contrasts greatly with the previous design, using unsympathetic materials and lighting which dominates the frontage and conflicts with the historic and architecturally impressive building.

4. Consequently, the works affect the character of the building and the special architectural and historic interest it has and constitutes a contravention of section 9(1) of the Act. The appeal on ground (c) cannot succeed.

The appeal on ground (e)

5. The ground of appeal is that listed building consent ought to be granted for the works. The main issues are whether the works preserve the Grade II listed building and any features of special architectural or historic interest it possesses; and the extent to which the works preserve or enhance the character or appearance of the Huddersfield Town Centre Conservation Area. As the proposal is in a conservation area and relates to a listed building I have had special regard to sections 66(1) and 72(1) of the Act.
6. The appeal property was first listed on 6 April 1973 and dates from the mid-nineteenth century. It is a three-storey building built in ashlar sandstone with sandstone stacks with moulded cornices and a modillioned eaves cornice. It has continuous sill bands, a moulded cornice above ground level and rusticated quoins. The ground floor has modern shopfronts and some of the fascias are separated by paired flute consoles. The restaurant frontage the subject of this appeal is in four bays with granite clad pilasters and modern timber windows with stall risers. The first and second floors have six ranges of sashes and moulded surrounds with those on the first floor having sills on fluted brackets, cornices, and triangular pediments on some windows. There are chamfered corners with Brook Street and Wood Street.
7. I consider the special interest and significance of the appeal site to be derived from its historic and architectural interest as a grand mid-nineteenth century property which forms part of the commercial townscape within central Huddersfield. Its age, materials and overall form and detailing, including its shopfronts, contribute to this significance and interest.
8. The appeal site is situated in the Huddersfield Town Centre Conservation Area which covers an extensive townscape around the town's central core. The special interest and significance of the Conservation Area is largely derived from the preservation of its historic core and street pattern, along with the architectural richness and variety of its historic buildings, comprising imposing landmark structures as well as some more modest commercial properties, which stem from the commercial and industrial history and development of the town. The architectural and historic elements of the building identified above positively contribute to the character and appearance of the Conservation Area as a whole and thereby to its significance as a designated heritage asset.
9. The unauthorised works comprise glossy gold lettering and logos fixed to a brown timber-effect board background. There is halo backlighting and internal illumination to acrylic lettering and logos. The materials used are at odds with the traditional ashlar of the property's frontage and the works are highly visually prominent modern additions to the high-quality building frontage and detract from the listed building's overall quality, drawing attention away from important architectural and historic features.
10. The illumination is not at all sympathetic to the listed building's façade and its surroundings within the Conservation Area. The works totally dominate the front elevation and cause harm to the character and significance of the listed building and key features of special architectural and historic interest. The

- level of the harm extends to the wider Conservation Area setting by compromising the architectural richness of the area and detracting from the overall quality of the prominent frontage within the street scene.
11. Given the above, I find that the proposal would fail to preserve the special interest of the listed building and the significance of the Conservation Area. Consequently, I give this harm considerable importance and weight in the planning balance of this appeal.
 12. Paragraph 199 of the National Planning Policy Framework (the Framework) advises that when considering the impact of development on the significance of designated heritage assets, great weight should be given to their conservation. Paragraph 200 goes on to advise that significance can be harmed or lost through the alteration or destruction of those assets and that this should have clear and convincing justification.
 13. With reference to paragraphs 201 and 202 of the Framework, in finding harm to the significance of designated heritage assets, the magnitude of that harm should be assessed. Given the extent and localised nature of the works, I find the harm to the listed building and the Conservation Area to be less than substantial in this instance. However, this should not be equated with a less than substantial planning objection and is of considerable importance and weight. Under such circumstances, paragraph 202 advises that this harm should be weighed against the public benefits of the works.
 14. In this case the appellant has not presented evidence of public benefits and therefore there are none against which I can balance the harm I have found. Consequently, in attributing considerable importance and weight to the harm to the special interest and significance of Nos 74-76 and the wider Conservation Area, I find that this is not outweighed by any public benefits of the alteration to the exterior of the building's ground floor shop frontage. In this respect, the proposal fails to satisfy the requirements of section 72(1) of the Act and paragraphs 199, 200 and 201 of the Framework.
 15. I am aware that applications for listed building consent, including deemed applications, are not subject to section 38(6) of the Planning and Compulsory Purchase Act 2004 and therefore development plan policies do not carry the same weight as when considering planning applications. Nevertheless, the works fail to comply with Policies LP24, LP25 and LP35 of the Kirklees Local Plan, which seek to promote good design by ensuring that the form, scale and details of all development respects and enhances the character of the townscape and heritage assets, design of advertisements and shopfronts should be consistent with the character of existing buildings and development affecting designated heritage assets should preserve or enhance the significance of the asset.
 16. I have taken account of the appellant's comments that there was previously a modern shopfront on the building. That may be the case but that is insufficient justification for the current works which are harmful. The presence of previous modern signage is not a reason to allow unacceptable works and, in any case, I have determined the current appeal on its merits.

A A Phillips

INSPECTOR