



Appeal Decision

Site visit made on 10 August 2023

by N Teasdale BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 01 September 2023

Appeal Ref: APP/E2734/W/23/3323897

21 Cheltenham Crescent, Harrogate, North Yorkshire HG1 1DH

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant full planning permission.
 - The appeal is made by Mr Jamie Marlow (Bijou and Wylde) against the decision of Harrogate Borough Council.
 - The application Ref 22/03853/FUL, dated 5 October 2022, was refused by notice dated 15 December 2022.
 - The development proposed is described as, *'formation of enclosed decked seating area wall to the front boundary at 21 Cheltenham Crescent and erection of pergola to provide shelter for outdoor seating'*.
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Decision

1. The appeal is allowed and planning permission is granted for development described as, *'formation of enclosed decked seating area wall to the front boundary at 21 Cheltenham Crescent and erection of pergola to provide shelter for outdoor seating'* at 21 Cheltenham Crescent, Harrogate, North Yorkshire HG1 1DH in accordance with the terms of the application, Ref 22/03853/FUL, dated 5 October 2022, and the Location Plan Drawing No. TQRQM22274142602356; Site Plan Drawing No. TQRQM22274135439049; Plan – Dimensions along with the following conditions:
 - 1) The use of the outside area for eating and drinking shall be restricted to the hours of 08:00 (or the time of opening if later) until 22:00 Monday to Sunday.
 - 2) Doors and windows to the rooms with recorded music (other than background music) shall be kept shut while music is being played, apart from egress and access.
 - 3) There shall be no speakers relaying music to the outside area.

Procedural Matters

2. The works as described in the above banner heading have already been completed. The appeal scheme has therefore been assessed on a retrospective basis. As part of my site visit, I was able to see the works that have already taken place on site which do not fully accord with the drawings submitted as part of this appeal. I have therefore determined the appeal based on the plans the Council based its decision on.
3. As part of the works, the host building has been painted black and the officers' report sets out that it is understood this would also require planning permission. This element did not form part of the application and does not

therefore form part of this appeal. Consequently, I do not need to consider this matter further.

Main Issue

4. The main issue is the effect of the proposed development on the character and appearance of the existing building, including whether it would preserve or enhance the character or appearance of the Harrogate Conservation Area (CA).

Reasons

5. The appeal site accommodates a commercial property known as Bijou and Wylde which is a bar/restaurant located along Cheltenham Crescent within Harrogate. The surrounding area is commercial in character and the appeal property is located within a row of other similar commercial properties that front onto the footway.
6. The properties along this side of Cheltenham Crescent particularly from No. 21 to No.31 share a uniformity of design detailing which is that of a traditional appearance including arched/recessed windows and doors with decorative features as well as dormer windows within their roof space. Whilst there is a clear rhythm of development which contributes positively to the character and appearance of the area, many of the properties along this row benefit from alterations to the front at ground floor level to provide for enclosed outdoor seating areas along with canopy features. Additionally, there are many other bars/restaurants nearby that also benefit from such additions which vary significantly in terms of their size and design and pergolas can be seen in the immediate vicinity of the site.
7. The site falls within the CA. I therefore have a statutory duty under Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 to pay special attention to the desirability of preserving or enhancing the character or appearance of the CA. Moreover, the National Planning Policy Framework (the Framework) advises that great weight must be given to the conservation of designated heritage assets and any harm which is less than substantial must be weighed against the public benefits of the proposal.
8. The significance of the CA is derived from its historical and aesthetic merits. In accordance with the Harrogate Conservation Area Character Appraisal (HCACA), the site falls within sub area A 'The Town Centre'. Buildings in this character area are described as being varied but form part of continuous terraces or detached or semi-detached villas with most buildings in the town centre fronting onto the footway. Shopfronts represent an important element of the town centre, and many high-quality traditional shopfronts survive.
9. A small area of external decking has been constructed to the front of the property to provide for an external seating area. It does not extend significantly outwards from the host property and is of a limited width. It is enclosed by mid-height fencing with posts serving a pergola area above. The pergola is of a relatively low height confined to the ground floor only and the open aspect to the front and sides help to break up its built form allowing a substantial amount of the property including its architectural detailing to be visible. Whilst painted black and of timber construction, its overall design is not dissimilar to other additions nearby and is not of a size or scale to detract from the main property nor appear overly prominent in this context. I am not

persuaded from the evidence before me and my own observations onsite that the structure is poorly/cheaply constructed, and I have had regard to the photographs submitted showing the building when it was vacant.

10. Whilst the development is visible from Cheltenham Crescent, other boundary treatments, canopy elements and other town centre paraphernalia along this side of the road helps to screen the development from views on approaching the site along this side and views of the development are largely only apparent from the other side of Cheltenham Crescent. As a result, the development has a limited effect on the street scene and, in any event, does not appear discordant when viewed in context of the diverse appearance of other front additions which also front the footway and are more visible within the street scene.
11. For the above reasons, I find that the development does not unacceptably affect the character and appearance of the existing building and preserves the character and appearance of the CA. As such, it complies with Policies HP2 and HP3 of the Harrogate District Local Plan 2014-2035 (2020) and the HCACA which together, amongst other matters, ensures that proposals affecting a heritage asset, or its setting, protect or enhance those features which contribute to its special architectural or historic interest. For the same reasons, the development also accords with Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 and aspirations of the Framework relating to conserving and enhancing the historic environment.

Other Matters

12. I note concerns raised regarding the painting of the host building and the property next door. I have addressed this matter above and any alterations that may have taken place next door or elsewhere do not change my findings on the above main issue as I have determined the appeal scheme based on its own merits.

Conditions

13. I have considered the Council's suggested planning conditions taking into account the retrospective nature of the appeal and in light of the Framework and Planning Practice Guidance. I have included the approved drawings, in the terms of my decision in the interests of certainty. Conditions relating to the hours of use of the outside area and music are necessary to protect the nearby amenity of the area.

Conclusion

14. For the reasons given above and having had regard to the development plan as a whole, the appeal is allowed.

N Teasdale

INSPECTOR