



Appeal Decision

Site visit made on 2 April 2024

by K L Robbie BA (Hons) DipTP MTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 7 May 2024

Appeal Ref: APP/W0734/W/24/3338339

200 Linthorpe Road, Middlesbrough TS1 3RF

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
 - The appeal is made by Mr Shobu Barua of Coco & Rum against the decision of Middlesbrough Council.
 - The application reference is 23/0345/COU.
 - The development proposed is the erection of a conservatory and change of use from public house to restaurant.
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Decision

1. The appeal is dismissed.

Applications for Costs

2. The appeal is accompanied by an application for an award of costs by Mr Shobu Barua of Coco & Rum against Middlesbrough Council. This is the subject of a separate decision.

Procedural Matter

3. The appeal form refers to a decision made by Redcar and Cleveland Council on 20 December 2023. It is clear from the information before me, however, that the appeal site lies within the Middlesbrough Council boundary and the application which is the subject of this appeal was made to Middlesbrough Council and a decision was issued on 5 January 2024. I have therefore determined the appeal on this basis and on the information before me.

Preliminary Matter

4. A revised National Planning Policy Framework (the Framework) was published in December 2023. This does not materially change the planning policy context in respect of the main issues, and I have determined the appeal accordingly. For the avoidance of doubt, I have referred to the revised paragraph numbers in my decision letter.

Background and Main Issue

5. There is no dispute between the parties as to the acceptability of the proposed change of use of the building to a restaurant. Based on the evidence before me I am satisfied that this aspect of the proposal would not cause material harm to the character and appearance of the area, and I have not been made aware that this element of the proposal would result in any conflict with development plan policies. Therefore, I have confined my detailed considerations to the proposed conservatory.

6. In light of the above, the main issue is the effect of the proposed conservatory on the side elevation facing Southfield Road on the character and appearance of the appeal property and the area.

Reasons

7. The appeal property lies on Linthorpe Road at its junction with Southfield Road within an area consisting of a mix of high street uses including shops, and a high concentration of pubs and food outlets. The building, which is the subject of this appeal, is distinctive. It is a single storey stone and brick building with large vertical windows and stone balustrading detailing at roof level. The entrance door is on a chamfered corner facing the road junction. Two windows on the Southfield Road elevation have had stonework beneath removed and the openings converted to doorways which open out onto a fenced and decked seating area. The decked area would be removed and replaced with an aluminium framed conservatory with a mono-pitched roof.
8. The building is identified by the Council as a Locally Listed Building, and in accordance with the Framework which defines heritage assets as including assets identified by the local planning authority (including local listing), it therefore comprises a 'non-designated heritage asset'. As a consequence, the Framework requires that the effect of the proposal on its significance should be taken into account. The Local List entry records that the appeal building was built in 1926 as a bank and is listed for its townscape value. I have no reason to disagree with this assessment.
9. The proposed conservatory would extend almost the full length of the side elevation. As a result, it would dominate this elevation and fundamentally alter the form and appearance of the building. Although the window openings on the Linthorpe Road elevation would remain visible from the street, the openings on the Southfield Road elevation would be almost entirely obscured by the proposal.
10. Although the building is no longer used for its intended purpose and, as set out above, there have been some changes to its fenestration, the remaining original features add considerably to the architectural interest of the building, and result in a distinctive building which is prominently positioned on the junction. In my judgement, the distinctive architectural qualities of the building together with its contribution to the townscape along Linthorpe Road make a positive contribution to the character and appearance of the surrounding area.
11. In weighing applications that directly or indirectly affect non-designated heritage assets, the Framework advises that a balanced judgement will be required having regard to the scale of any harm or loss and the significance of the heritage asset. In this case, the scale of the harm resulting from the addition of a substantial conservatory would be significant and would harm both the appearance of the building and would detract from the character and appearance of its immediate surroundings on the junction.
12. The conservatory would replace a decked area with a low fence which may attract some anti-social behaviour and results in rubbish being deposited on the decking. Whilst I appreciate that a conservatory would remove a target for such behaviour which would be a factor in favour of the proposal, I am not persuaded that the proposal before me is the only possible solution to the problem. The conservatory would assist in bringing the building back into use,

however, I have not been provided with any substantive evidence that it is an essential factor for this to occur.

13. Therefore, for these reasons, taking a balanced judgement, I find that the benefits of the proposal are insufficient to outweigh the harm to the Locally Listed Building and its significance as a non-designated heritage asset. Consequently, I conclude that the proposed extension of the Locally Listed Building would not be justified, and the development would cause unacceptable harm to the character and appearance of the surrounding area. It would accordingly conflict with Policies DC1, CS4 and CS5 of the Middlesbrough Local Development Framework Core Strategy 2008, which among other things seek to ensure that development is of high quality, well integrated with its immediate context and enhances Middleborough's townscape character. The proposal would also be contrary to paragraph 203 of the Framework insofar as it sets out the general principles of conserving and enhancing the significance of heritage assets.

Other Matters

14. The appellant refers to positive discussions with Officers at Council during the course of the application, and that care was taken with the design of the conservatory to ensure that architectural features on the building were not damaged. However, I am mindful that discussions, even during the course of an application, are not binding on any decision the Council may eventually make, and in this instance I agree with the decision that the Council reached.
15. I note the appellants dissatisfaction with the Council's handling of the application. However, this is not a matter that I can consider under a Section 78 planning appeal and does not alter my findings, in which I have had regard solely to the planning merits of the proposal.

Conclusion

16. For the reasons set out, the proposed development would conflict with the development plan when read as a whole. There are no material considerations of sufficient weight to indicate the decision should be taken otherwise. The appeal should therefore be dismissed.

KL Robbie

INSPECTOR