

Appeal Decisions

Site visit made on 12 September 2024

by G J Fort BA PGDip LLM MCD MRTPI

an Inspector appointed by the Secretary of State

Decision date: 17th September 2024

Appeal A Ref: APP/Q0505/W/24/3341608

2 Sussex Street, Cambridge, Cambridgeshire CB1 1PA

- 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 Peter Williams (Fired Earth Limited) against the decision of Cambridge City Council.
 - The application Ref is 23/03069/FUL.
 - The development proposed is the installation of electronically operated security shutter to front entrance of shop premises.
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Appeal B Ref: APP/Q0505/Y/24/3340062

2 Sussex Street, Cambridge, Cambridgeshire CB1 1PA

- The appeal is made under section 20 of the Planning (Listed Buildings and Conservation Areas) Act 1990 (as amended) against a refusal to grant listed building consent.
 - The appeal is made by Mr Peter Williams (Fired Earth Limited) against the decision of Cambridge City Council.
 - The application Ref is 23/03070/LBC.
 - The works proposed are the installation of electronically operated security shutter to front entrance of shop premises.
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Decisions

Appeal A

1. The appeal is dismissed.

Appeal B

2. The appeal is dismissed.

Background and Main Issues

3. The appeals follow refused applications for planning permission and listed building consent for development and works related to Harrington House, Kent House, Montagu House, Sidney House and Sussex House, a complex of properties included on the statutory list at Grade II (hereafter referred to as 'the Listed Building'). The appeal site is also within the Central Conservation Area. The descriptions of works and development given in the banner headings above are taken from the application forms.

4. Section 16(2) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (as amended) (the 1990 Act), is relevant to Appeal B and provides that in considering whether to grant listed building consent for any works decision-makers shall have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses. Similarly, in respect of Appeal A s66(1) of the 1990 Act requires me, in considering whether to grant planning permission, to have special regard to the desirability of preserving the listed building or its setting or any features of special architectural or historic interest which it possesses. In assessing both of these appeals, I also need to pay special attention to the desirability of preserving or enhancing the character or appearance of the Conservation Area (per s72(1) of the 1990 Act).
5. Accordingly, the main issues are:
firstly, for both appeals whether the appeal scheme would preserve the Listed Building, its features of special interest, and the character and appearance of the Conservation Area; and
secondly, in respect of Appeal A only, the effect of the proposal on the vitality and viability of the City Centre.

Reasons

Site, surroundings and significance

6. The appeal property is at one end of an open bowed arcade of commercial premises at the ground floor of the Listed Building. The arcade is part of a building complex intended for a mixture of uses including retail at the ground floor, with offices and student accommodation above. Pevsner's Guide to the area describes the Listed Building as "the best piece of pre-war urban planning in Cambridge".
7. A centrally placed recessed entrance adds articulation and visual interest to the appeal property's shopfront. This feature, taken together with the traditional appearance and proportions of the shopfront's stallriser and fascia, and the elegance of its slender glazing bars and mosaic entrance flooring add to the special interest and significance of the host Listed Building. Moreover, the shopfront is part of a wider locale where recessed entrances in traditionally proportioned shopfronts are a feature, and which taken together make a strong positive contribution to the character and appearance of the Conservation Area.

The appeal scheme

8. The proposal is for the installation of a security shutter to the front entrance, which the appellant indicates would be of an open lattice-work design.

The effect of the appeal scheme – heritage assets

9. The proposal would introduce the housing for the shutter directly below the appeal property's fascia. This would appear as a bulky feature that would not work well with the proportional arrangement of the shopfront and would look incongruous and intrusive. This would be a marked difference to the shutter present in the recessed entrance at 9 Sussex Street, the housing for which is integrated behind the fascia. Moreover, within the wider streetscene, and the commercial part of the Conservation Area more

generally, few recessed entrances have shutters installed, meaning that 9 Sussex Street is very much an exception rather than a rule. For these reasons, the presence of the shutter at 9 Sussex Street does little to mitigate the incongruity of the proposal. I also note that the shutter at No 9 was consented in 2001, considerably before the adoption of the Cambridge Local Plan in October 2018, and the policies and related guidance it contains on shopfronts.

10. Whilst the open lattice design would allow some visual permeability, at the times when the proposed shutter would be closed it would nevertheless be a visible feature that would interfere with an appreciation of the articulation and glazing content of the shop front, to the detriment of its aesthetic qualities. Moreover, even when the shutter would not be in use, its housing and rails would remain visible as functional and intrusive items that would jar with the elegant detailing of the shopfront, including the mosaic flooring and slender glazing bars. It would therefore neither reflect, nor successfully contrast with the existing architectural details of the Listed Building. As a result, the proposal would be unsympathetic both to the existing building and the surrounding area.
11. Accordingly, and in the context of my duties as set out in the 1990 Act, I conclude on this main issue that the proposed development would fail to preserve the Listed Building and its special interest, and would not preserve the character and appearance of the Conservation Area. For these reasons too, the proposed development would conflict with Policies 10, 55, 56 and 58 of the Local Plan, insofar as, amongst other things, they seek to ensure that heritage assets are preserved and that the highest quality of design which responds sensitively and positively to its context is used in proposals relating to the city centre.
12. In arriving at this view, I have taken into account Policy 64 of the Local Plan, which requires proposals to have regard to specific shopfront guidance included in its appendix. This guidance sets out that the installation of such shutters should be supported by evidence, which amongst other things, should describe why other forms of protection have not worked, and provide information about previous incidents from the police and insurance companies. No such substantive evidence has been provided in this case and, as the proposed development would also fail to respect the proportions, character and materials of the building, its adjoining buildings and the wider streetscene it would therefore conflict with Policy 64.

Vitality and Viability

13. The proposed shutter would only be rolled down during the hours that the shop was not trading. Although I have found that its detailing would be unsympathetic to the character of its host building and surroundings its lattice design would nevertheless allow for some visibility through to the recessed entrance. Moreover, the large windows to either side of that entrance would remain free from shutters, which would allow views through to the shop. For these reasons, I conclude on this main issue that the proposed development would not have an adverse impact on the vitality and viability of the city centre. I accept, however, that this finding means that the appeal scheme would fall short of the requirements of Policies 10(a) and

11 of the Local Plan insofar as they expect proposals to make a positive contribution to the vitality and viability of the city centre. However, the proposal's lack of harm in these terms means that I accord the conflict with this policy only limited weight in the overall planning balance.

Planning Balance

14. The National Planning Policy Framework (the Framework) anticipates that once a finding of harm to the significance of heritage assets has been reached that the magnitude of that harm should be assessed. In the current case, the harm that the proposal would cause is clearly less than substantial. Nevertheless, the Framework is clear (at paragraph 205) that great weight should be given to the conservation of heritage assets, irrespective of the level of harm. Moreover, less than substantial harm should be balanced against the public benefits of a proposal including, where appropriate, securing its optimal viable use (per paragraph 208 of the Framework). It has not been suggested in this case that the proposal would be necessary to secure the optimum viable use of the building.
15. I have found that the proposed development would not have an adverse effect on the vitality and viability of the city centre, however, this lack of harm has only a neutral effect on the planning balance, and this does not amount to a public benefit. The Council also cited Policy 59 on its decision notice relating to the planning application. However, as this policy relates to landscape and public realm it is not directly relevant to the appeal proposal. The resultant lack of conflict with this policy is also a neutral factor which neither weighs for nor against the appeal proposal.
16. The appellant and the landlord of the building, the latter of whom wrote in favour of the proposal at the appeal stage, set out concerns about the use of the recessed entrance by homeless people for sleeping and other activities. They consider the proposed shutter would be needed to stop these activities. Improving the security of the shop would be, on the whole, a private benefit of the proposal. However, the Framework recognises that fostering safe places is part of the social objective of sustainable development (per paragraph 8(b)). Against this background, I consider the restriction of the activities described in the appellant's supporting information could result in an improved perception of safety for the general public in a very specific and localised part of the city centre. As noted above, however, no supporting evidence has been provided from the police or other relevant agencies relating to the types of activities that the appellant and landlord have described.
17. Taking these things together, I consider that the public benefit that would flow from the appeal scheme would be minimal. As a result, the public benefit carries only limited weight in the proposal's favour, and is clearly outweighed in the overall balance by the great weight given to the harm that would be caused to the significance of the Listed Building and the Conservation Area. The proposal would thus conflict with Policy 61 of the Local Plan and the Framework, which, taken together and amongst other things expect heritage assets to be conserved in a manner appropriate to their significance, and that any harm to the significance of designated heritage assets is clearly and convincingly justified.

18. Moreover, neither the public nor private benefits of the proposal amount to material considerations that justify a decision other than in accordance with the development plan, with which, in terms of the policies cited above the appeal scheme would clearly conflict.

Conclusions

19. Accordingly, for the reasons set out above, and taking into account all other matters raised, I conclude that the appeals should be dismissed.

G J Fort

INSPECTOR