



Appeal Decision

Site visit made on 29 August 2024

by Zoë Franks Solicitor

an Inspector appointed by the Secretary of State

Decision date: 17 September 2024

Appeal Ref: APP/Z2505/C/23/3329297

2 Sleaford Road, BOSTON, PE21 8EG

- The appeal is made under section 174 of the Town and Country Planning Act 1990 (as amended). The appeal is made by Mr Nazeer Dahar against an enforcement notice issued by Boston Borough Council.
 - The notice was issued on 15 August 2023.
 - The breach of planning control as alleged in the notice is the installation of 3 number roller shutters.
 - The requirement of the notice is to remove the roller shutters and all housings and fittings.
 - The period for compliance with the requirement is 1 month.
 - The appeal is proceeding on the ground set out in section 174(2)(a) of the Town and Country Planning Act 1990 (as amended). Since an appeal has been brought on ground (a), an application for planning permission is deemed to have been made under section 177(5) of the Act.
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Decision

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

Ground (a) and the deemed planning application

2. The main issue is the effect of the development on the appearance of the host building, and the character and appearance of the area.

Effect on the host building

3. The host building at 2 Sleaford Road is a non-designated heritage asset. It is described as having been built as a late-Victorian red brick station building/warehouse, and it was also previously used as a railway social club.
4. The building is now being used as a grocery store and off-licence and the development consists of 3 box roller shutters on the front elevation which faces Sleaford Road at an oblique angle. The metal shutters are bright green in colour, and rectangular in shape. The openings in the building which are covered by the shutters provide two full length windows on either side with an automatic double door for the customer entrance in the centre. All three of the original openings were a single width with an ornamental brick arch at the top, and which are part of the historic design and feature of the building.

5. The shutters and housings therefore cut across the top part of the previous openings, both in terms of the width of the shutters and in bisecting the curve of the arched decorative features. The combination of the scale and shape of the development and its bright colour therefore looks clumsy and incongruous on the building, and detracts from its attractive design and appearance. It causes harm to the significance of the heritage asset.
6. Whilst the purpose of the shutters is to provide security to the business operating in the building, there are other options available to provide the same level of security which do not need to be so prominent and out of character on the outside of the host building. Changing the colour of the shutters alone would not sufficiently reduce the harm, as it is the scale and design of the development, as well as the colour, which is causing the harm.
7. It is in conflict with Policies 2, 3 and 29 of the South East Lincolnshire Local Plan 2011 – 2036 (“the SELLP”) which provides that development should have a high quality of design and create a sense of place by complementing and enhancing heritage assets, and that there should be the appropriate treatment of facades including shop frontages to avoid visual intrusion by security shutters. The National Planning Policy Framework (“the Framework”) advises that the effect of development on the significance of a non-designated heritage asset should be taken into account, and 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 host building is readily seen from the public sphere including busy roads, and material harm caused to the significance of the heritage asset.

Effect on the character and appearance on the area

8. The character and appearance of the area is that of a busy mixed use. Other uses in the immediate vicinity include a large supermarket and petrol station, business park with medical clinic, train tracks and a level crossing and residential. The development faces one of the main and busy routes into Boston town centre. It does not look out of place overall in this busy environment which already has a great many signs and commercial buildings and elements, including on the highway. Harm is not therefore caused to the overall character and appearance of the area.

Other matters

9. The site lies in proximity to a Grade II listed building, 5 Sleaford Road. The building’s significance mainly arises from its historic and architectural interests. Pertinent to the appeal, it is also derived in part from its urban setting. This has clearly changed dramatically over time and been compromised by surrounding modern infrastructure and development, moderating the extent to which its wider setting, including the appeal site, contributes to its significance.
10. Given the above, as well as the location and extent of the development in relation to 5 Sleaford Road, I find that the setting of this designated heritage asset is preserved and the contribution it makes to the asset’s significance is not harmed. This meets the requirements of section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990; the provisions in the

Framework regarding the conservation and enhancement of the historic environment; and Policies 3 and 29 of the SELLP. I note this did not form part of the Council's reasons for issuing the notice either.

Conclusion

11. The development causes material harm to the appearance of the host building which is a non-designated heritage asset and is therefore in conflict with Policies 2 and 3 of the SELLP, and the development plan as a whole. As there are no other material considerations to overcome this harm, I conclude that the appeal should not succeed. I shall uphold the enforcement notice and refuse to grant planning permission on the application deemed to have been made under section 177(5) of the 1990 Act (as amended).

Zoë Franks

INSPECTOR