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## Appeal Decision

Site visit made on 6 August 2019

**by Graham Dudley BA (Hons) Arch Dip Cons AA RIBA**

**an Inspector appointed by the Secretary of State**

**Decision date: 7 May 2020**

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**Appeal Ref: APP/W5210/C/18/3215155**

**Ground floor, 16 Leigh Street, WC1H 9EW**

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991.
  - The appeal is made by Mr Chilli Cool Ltd against an enforcement notice issued by The London Borough of Camden.
  - The enforcement notice was issued on 15 October 2018.
  - The breach of planning control as alleged in the notice is the installation of a parasol and timber decking at the rear of the site.
  - The requirements of the notice are to remove the timber decking and parasol, including all associated fixtures and fittings and to make good any damage caused to the rear elevation of the property in materials that match the existing adjacent with regard to the methods used and to material colour, texture and profile.
  - The period for compliance with the requirements is 2 months.
  - The appeal is proceeding on the grounds set out in section 174(2)(a) of the Town and Country Planning Act 1990 as amended.
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### Decision

1. The appeal is dismissed and the enforcement notice is upheld insofar as it relates to the parasol and planning permission is refused in respect of the parasol on the application deemed to have been made under section 177(5) of the 1990 Act as amended.
2. Planning permission is granted on the application deemed to have been made under section 177(5) of the 1990 Act as amended, for the timber decking.

### Reasons

#### **Ground (a)**

3. The development plan includes Camden's Local Plan adopted in 2017 CLP.
4. CLP Policy D1 requires securing high quality design in development. The Council will require that development respects local context and character and preserves or enhances the historic environment and heritage assets in accordance with Policy D2. CLP Policy D2 states that the Council will preserve and, where appropriate, enhance Camden's rich and diverse heritage assets and their settings, including conservation areas and listed buildings. This is supported by CPG1 (Design). There is also the Bloomsbury Conservation Area Appraisal and Management Strategy.
5. The building is in the Bloomsbury Conservation Area and grade II listed. The list description notes it as being part of 8 terraced houses by James Burton, with shopfronts added later. The detailing of the external fabric of the building is described. I consider that the significance and architectural and historic

interest of the building relates to its design and detailing and the relationship with similar buildings in the row. The Bloomsbury Conservation Area's significance and special interest relates to the formal layout of streets and buildings in the conservation area and their design and detailing. Spaces between buildings are important to the setting of the buildings and the conservation area's character and appearance.

6. The yard area outside the building is relatively small, but provides important open space to the rear of the building, allowing some appreciation of the rear of the building. Other properties in the row have had structures built within them that take up a considerable amount of the associated yard space, while others have relatively open garden areas. I consider that, while some of the space to the rear has been infilled, it does not set a precedent for the infilling, but reinforces the need to retain some open space at the rear of these buildings.
7. The timber decking appears to have been laid fairly close to the ground level and is typical of this type of external finish. The decking has been continued to form steps into the rear of the building. This is a small 'courtyard' area and hard surfacing is not inappropriate in terms of the character and appearance of the listed building or the conservation area generally. It is not excessively raised up or eye catching. I do not consider that it has any harmful effect on the significance or architectural and historic interest of the listed building or conservation area.
8. The parasol is a large single canopy that almost fills the open space at the rear of the building. It may be relatively small in relation to the building, but it is very large in relation to the open space outside of the building. In addition, it has around part of its perimeter material that can be rolled up and down to create further enclosure. There is a clock on the outside rear wall of the building, but the parasol is not attached to the building. While it is made of a flexible fabric material it still is visually a strong form enclosing the space at the rear of the building. This causes considerable harm to the appearance of the building at the rear and to the openness of the space that remains at the rear of these buildings. I conclude that the parasol causes harm to the significance and architectural and historic interest of the listed building. While there is harm, I consider that it is very localised and does not affect the significance of the conservation area as a whole.
9. The appellant suggests that the parasol could be collapsed each night, but that does not appear to be occurring at the moment. It is possible that a condition could be attached to this effect, but given that the parasol is at the rear it would be difficult to enforce. In any case, if the parasol is up for the rest of the time the harm from it would occur for long periods. I have noted that this type of condition has been used elsewhere, but to my mind the likely continuing harm during the day would be considerable and in terms of the National Planning Policy Framework would be classified as 'less than substantial harm'. This needs to be weighed against any public benefits provided.
10. I appreciate that the space enables more customers to be served, making the best use of the space and providing the optimum viable use. It would help the business grow, secure employment and add a little to the viability of the area. However, the evidence that is provided does not demonstrate that the viability of the use and listed building relies on the additional space. It seems to me to

be unlikely that the listed building's viability would be at risk should the appeal be dismissed given the area of the space. Overall, while I accept there is some benefit, the weight to this is limited and public benefits do not outweigh the harm caused by the parasol.

11. The appeal on ground (a) fails for the parasol, but succeeds for the timber decking.

*Graham Dudley*

Planning Inspector