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## Appeal Decision

Site visit made on 22 February 2017

**by Keith Manning BSc (Hons) BTP MRTPI**

**an Inspector appointed by the Secretary of State for Communities and Local Government**

**Decision date: 3 March 2017**

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**Appeal Ref: APP/Z3445/W/16/3158234**

**Bonds, 12 Church Street, Tamworth B79 7DH**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
  - The appeal is made by Mr Jim Buckley against the decision of Tamworth Borough Council.
  - The application Ref 0035/2016, dated 22 January 2016, was refused by notice dated 14 March 2016.
  - The development proposed is alterations to main entrance including new doors and repainting.
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### Decision

1. The appeal is dismissed.

### Main Issues

2. The main issues are:-
  - the effect of the proposed development on the character or appearance of the Town Centre Conservation Area; and
  - the effect of the proposed development on the living conditions of nearby residents with regard to potential noise and disturbance

### Reasons

3. Tamworth's Town Centre Conservation Area is thoroughly described and analysed within the 2007 conservation area appraisal commissioned by the Council and adopted as supplementary planning guidance.
4. Although the building comprising the appeal site is not mentioned specifically it clearly falls within the St Editha's Church & Church Street character area which lies at the heart of the town centre.
5. The significance of the building to and within the heritage asset which the conservation area represents is wholly unclear from the submitted heritage statement. The intention of the National Planning Policy Framework ('the Framework') is that proportionate detail should enable a sufficient understanding of potential impact. However, the statement goes little further than explaining the rationale for the proposal from the appellant's perspective.
6. Be that as it may, it is clear from the conservation area appraisal that, notwithstanding the variable quality of shop fronts as a consequence of

alteration over time, preserving both the overall character and the appearance of this part of the conservation area relies amongst other things on arresting, if not reversing, the influence of inappropriate late twentieth century shopfronts.<sup>1</sup>

7. Although the appeal site is neither nationally or locally listed and may on the face of it therefore warrant less attention in terms of restoration than the shopfronts the Council intends to target under the auspices of The Town Centre Management Plan<sup>2</sup>, that is not at all the same thing as acceding to a less rigorous approach to shopfront replacements in the conservation area in general and this section of Church Street in particular. Moreover, the fact that the building currently functions as a public house does not in my view exempt it from the principle of encouraging appropriate replacement when required. It is, inescapably, part of the run of commercial uses at ground floor level along the street within the historic buildings which combine to impart its character and appearance.
8. In concluding thus I am conscious of my duty under s72 of the 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 conservation area. That statutory duty of general applicability is reflected variously in the Framework and in policies EC2, EN5 and EN6 of the Council's recently adopted local plan; and the effect of the proposal on the heritage asset that the conservation area represents, and on its significance, is a key concern as harm in that context merits considerable importance and weight.
9. It does seem to me that the appearance of this part of Church Street would benefit from investment. The proposal at issue does represent renewal of and investment in the built fabric of the street, albeit relatively superficial in the sense that it is presentational rather than fundamental to the future of the building and, in principle, the proposed renewal of the shop front would be of some public benefit, certainly if the alternative was no investment in such maintenance and upgrading. However, accordance with policy EC2 of the local plan is contingent, amongst other things, on protection or enhancement of historic character and I have no evidence to suggest that alternative design approaches more sensitive to the historic character of the conservation area could not be achieved without compromising the use of the building as a public house.
10. Against that background, I consider the existing 'shopfront', although plainly of relatively recent origin (if now a little 'tired') and not therefore 'original' as such, to accord generally with the character, particularly, of the traditionally styled shopfronts described in the Council's statement<sup>3</sup> (drawing on the conservation area appraisal) as characteristic.
11. However, detail is crucial in designing replacements appropriately for context in situations such as this and the bi-fold doors proposed in this instance would neither achieve the clear contrast sometimes innovatively and successfully deployed in the historic built environment (and positively contemplated by local plan policy EN5) nor sympathetically reflect the prevailing characteristics of traditionally styled shopfronts identified as important in the conservation area appraisal. The photographic examples of the proposed doors included in the

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<sup>1</sup> Paragraph 5.4.33

<sup>2</sup> Council's statement paragraph 3.4

<sup>3</sup> Ibid. paragraph 5.8

appellant's statement do not persuade me that departing from tradition in the manner proposed would not be significantly harmful in this instance. On the contrary, their incongruity would be plainly evident.

12. For the above reasons, I consider that the proposed development would, as the Council maintains, conflict harmfully with the intentions of the local plan policies EC2, EN5 and EN6, the latter being specifically concerned with protecting the historic environment. In particular, the character of the conservation area would be further eroded and its significance as a heritage asset harmed accordingly, albeit the harm would certainly be less than substantial. Nevertheless, with specific reference to paragraph 134 of the Framework, given that there are likely to be alternative approaches less erosive of character, the public benefit of renewed investment in the urban fabric of the street would not be so great as to outweigh the harm that would be caused. On that basis alone the appeal would fall to be dismissed.
13. As far as the effect on residential amenity is concerned, I am conscious that the Council's Environmental Protection Officer objected on the grounds that the potential for noise and disturbance being increased for occupiers of nearby residential accommodation, as a consequence of the bi-fold doors being kept open, had not been adequately addressed. Although the appellant's statement is to the effect that these concerns are now "understood" to have been addressed I have no clear evidence to that effect. In any event, it seems to me, bearing in mind climatic considerations, that the scope for disturbance would in fact be greatest on warm summer evenings when it is reasonable to suppose that residents would wish to keep windows open for ventilation. Although the evidence is inconclusive either way, the residual doubt thus associated with this issue in the context of local and national policy intentions to protect residential amenity adds weight to the Council's case that the application has properly been refused; and my overall conclusion is not dependent upon that additional weight in any event.
14. Having taken all other matters raised into account, I conclude, for the reasons I have given, that the proposed development would conflict with the intentions of relevant legislation regarding the desirability of preserving the character or appearance of conservation areas, the development plan and national policy. No material considerations sufficient to outweigh that conflict have been identified and it is therefore clear that the appeal must fail.

*Keith Manning*

Inspector