



Appeal Decisions

Site visit made on 18 June 2019

by I Bowen BA(Hons) BTP(Dist) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 06 August 2019

Appeal A Ref: APP/B1605/Z/19/3221864

1 Grosvenor Terrace, Cheltenham GL52 2SA

- 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 Strand Jewellers against the decision of Cheltenham Borough Council.
 - The application Ref 18/01995/FUL, dated 1 October 2018, was refused by notice dated 6 December 2018.
 - The development proposed is part retrospective application for the installation of an internally illuminated fascia sign and installation of an external roller shutter.
-

Appeal B Ref: APP/B1605/Z/19/3221866

1 Grosvenor Terrace, Cheltenham GL52 2SA

- The appeal is made under Regulation 17 of the Town and Country Planning (Control of Advertisements) (England) Regulations 2007 against a refusal to grant express consent.
 - The appeal is made by Strand Jewellers against the decision of Cheltenham Borough Council.
 - The application Ref 18/01995/ADV, dated 1 October 2018, was refused by notice dated 6 December 2018.
 - The advertisement proposed is part retrospective application for the installation of an internally illuminated fascia sign and installation of an external roller shutter.
-

Decisions:

Appeal A Decision

1. The appeal is allowed and planning permission is granted for the installation of a roller shutter at 1 Grosvenor Terrace, Cheltenham GL52 2SA in accordance with the terms of the application, Ref 18/01995/FUL, dated 1 October 2018.

Appeal B Decision

2. The appeal is allowed and express consent is granted for the installation of an internally illuminated fascia sign as applied for. The consent is for five years from the date of this decision and is subject to the five standard conditions set out in the Regulations and the following additional condition:-
 - 1) Notwithstanding the details shown on the submitted plans, the fascia sign shall not project beyond the wall to which it is attached by more than 0.15m.

Preliminary Matters

3. As set out above, there are two appeals on the site. These had been the subject of an application seeking both planning permission and consent to display an advertisement. The works for which approvals are being sought include a roller shutter and a projecting fascia with shop signage. On the basis of the submitted evidence, I consider the latter would require advertisement consent (Appeal B) whilst the roller shutter element of the scheme constitutes development and therefore requires planning permission under separate legislation (Appeal A).
4. Accordingly, I have determined each appeal on its individual merits having regard to the relevant legislation, planning policy and guidance. However, in order to avoid duplication, I have considered the two appeals together. Moreover, I have amended the descriptions of the proposals in my formal decision above to correspond with the respective works being proposed. In addition, I have omitted the words "part retrospective" as that phrase does not refer to an act of development or the display of an advertisement.
5. No plans or drawings were submitted by the appellant to indicate the design or details of the roller shutter. However, the Council provided drawings which had been submitted for a previous similar application on the appeal site, and which had informed its decision on the current appeal proposals. The appellant has had opportunity to comment in this respect but has not done so. I have therefore had regard to the information provided and am satisfied that no party has been prejudiced by my doing so.
6. In any event, I saw on my site visit that the roller shutter has already been installed. As I visited late afternoon, I took the opportunity to view it both in its retracted state and when covering the shop window and it appeared consistent with the submitted material. I have therefore dealt with this element of the appeal as a proposal to retain the existing shutter.
7. I also saw, consistent with the submitted evidence, that shop signage and a projecting fascia has also already been installed. However, given the proposal is to reduce the depth of that fascia (to 0.25m), I have considered that application for express advertisement consent as though it were being made afresh, rather than as a retrospective proposal. I shall therefore determine that element of the appeal on the basis of the submitted plans rather than that which exists on site.
8. However, during the appeal, the appellant requested that I consider a revised proposal which would reduce the depth of the proposed projecting shop fascia further to 0.15m.
9. In this regard, I am mindful of the Planning Inspectorate's guidance¹ which advises that the appeal process should not be used to evolve a scheme. However, notwithstanding the reduction in the projection of the fascia, the proposed scheme would essentially remain the same as that considered by the Council. Furthermore, the Council have had opportunity to comment on the revised proposal in the appeal process. I therefore consider no parties would be prejudiced if I were to determine the appeal on the basis of the revised proposal, and I have done so.

¹ 'Procedural Guide – Planning Appeals – England'

10. The name of the applicant cited on the application form does not match that which appears on the appeal forms. The right of appeal is only afforded to the person who originally applied for permission. However, both applications and appeals indicate the applicant is "Strand Jewellers" and so I have used that name in the banners and my formal decision above.

Main Issues

11. Powers to control advertisements may only be exercised in the interests of amenity and public safety, taking into account the provisions of the development plan, in so far as they are material and any other relevant factors. No concerns have been raised with respect to public safety and I see no reason to disagree. Accordingly, the main issues are:
- The effect of the proposal on the character and appearance of the area, with particular regard to whether it would preserve or enhance the character or appearance of the Central Conservation Area (Appeal A only); and
 - The effect of the proposed advertisement on visual amenity (Appeal B only).

Reasons

12. The appeal site is a mid-terrace jewellers with a traditional part-glazed shop front. It is located within a pedestrian side-alleyway leading off a main shopping thoroughfare in Cheltenham town centre. It lies within the 'Old Town Character Area' (OTCA) part of the designated Central Conservation Area (CCA).
13. The CCA as a whole includes the entirety of Cheltenham town centre and surrounding suburbs, encompassing a wide range of commercial, industrial, retail, residential and other areas. Overall the significance of the CCA lies in the historic development of Cheltenham as a Regency town and its Cotswold setting.
14. The OTCA focuses on the historic core of Cheltenham and reflects its significance in terms of the town's historic layout and street pattern encompassing a variety of architectural styles and ages, including many listed buildings. The OTCA appraisal confirms that the architecture of the Old Town contributes significantly to the character and appearance of the area and identifies inappropriate shop frontages and fascias which do not complement historic buildings as a particular threat.
15. Whilst lying within the town centre close to the High Street and on a busy pedestrian through route, the immediate environs of the appeal site is mixed in character with a wide variety and styles of buildings, materials and paraphernalia. These include a multi-storey car park, supermarket, various advertisements including projecting signage and bulky air conditioning units. I saw that the appeal building is largely viewed in that context and is not readily visible when passing by on High Street.
16. Given its traditional form, however, I find that the appeal property makes a positive contribution to the significance of the CCA, albeit this is tempered to a degree by its context as described above.

Character and appearance (Appeal A only)

17. According to the submitted evidence, the roller shutter is constructed of galvanised aluminium, and incorporates narrow perforations in the metal in its central section. The installation spans the full width of the shopfront and projects beyond the window with the motor being housed behind a fascia box above. The shutter is attached with permanently fixed metal rails to the outside of the building.
18. As such, it has a stark and deadening appearance, particularly when closed, which detracts from the character of the existing shopfront and presents a blank and somewhat sterile appearance to the wider alleyway. Whilst this is relieved to some extent by the perforations, these do not serve to significantly allow visibility of the shop window behind or diminish the harsh effect on the street scene.
19. In this regard, the proposal conflicts with the Council's adopted Shopfront Design Guide Supplementary Planning Document February 2007 (SPD) which states a clear preference for security grille boxes to be inserted behind shop fascias with the grille inside the shop window. The SPD recognises, however, that the preferred arrangement may not always be possible and that in such cases the grille can be located outside the shop window.
20. Whilst the Council is concerned that the shutter, as installed, satisfies neither of these scenarios, I am mindful that the grille box whilst projecting beyond the wall, would be contained within, and obscured by, a relatively slim fascia box². Moreover, the appellant's evidence indicates that specialist advice has been sought which indicates, in the absence of re-modelling of the shop front, it is necessary for the shutter to project beyond it in order to maintain adequate security.
21. Be that as it may, I consider for the above reasons that the shutter has a harmful effect on the existing shopfront and its setting in the wider CCA as a whole. Having regard to the statutory duty under Section 72 of the Planning (Listed Building and Conservation Areas) Act 1990, the development fails to preserve and enhance the character or appearance of the CCA.
22. Given the significance of the building to the CCA as a whole, the harm, in the terms of the National Planning Policy Framework (the Framework), is "less than substantial". Furthermore, given its siting and context as indicated above, this lies, in my judgement, towards the lower end of the spectrum of harm.
23. Nevertheless, the Framework makes clear that great weight should be given to the conservation of designated heritage assets and that any harm should require clear and convincing justification. It is therefore necessary to weigh the harm against the public benefits of the development to which I turn below.
24. The appellant's evidence indicates that, given its side street location, external security is a pre-requisite for maintaining insurance cover. Moreover, in this instance, the premises are particularly sensitive in security terms as the shop trades in high value items and also holds repair items for a broad client base. In this regard, it is stated that the business has already fallen victim to acts of vandalism and two attempted break-ins at a former premises nearby. There is also evidence of recent attempted break-ins at neighbouring premises. I

² Under the revised proposal, considered under Appeal B.

therefore consider there is a genuine and realistic prospect of an ongoing security risk to the business.

25. Furthermore, the appellant's submitted evidence also shows that alternative security arrangements which would be adequate to safeguard high value items were considered but would have required alterations to the traditional shop front. Such alterations which would have been likely to be harmful to its traditional character.
26. The policies of the Framework promote conditions in which business can invest, expand and adapt and ensure crime and disorder do not undermine quality of life or community cohesion. In this context, the benefits of a commercial operation remaining occupied and successfully trading in a manner which does not lead to the loss of a traditional architectural feature in the CCA are matters to which I attach significant weight.
27. No relevant Development Plan policies have been brought to my attention which guide the assessment of proposals for development specifically in conservation areas. However, given the harm that would arise to the CCA is already limited by the particular context of the locality as described above, I conclude on this main issue that the harm is outweighed by the public benefits. The development therefore complies with Paragraph 196 of the Framework.
28. For the same reasons, in failing to represent good design, the development is harmful to the character and appearance of the building and the street scene. Consequently, it fails to accord with Policy CP 7 of the Saved Cheltenham Borough Local Plan Second Review (2006) (the CBLP). That Policy states that development will only be permitted where it is of a high standard of architectural design, and complements and respects neighbouring development and the character of the locality. However, the benefits of the scheme identified above are significant material considerations which are sufficient to outweigh the conflict with Policy CP 7 in this case.

Visual Amenity (Appeal B only)

29. The proposed fascia would be similar to that which has already been installed on the shop front. Essentially it would comprise an illuminated sign bearing the name of the business in white lettering with subservient white text set onto the fascia box. The fascia box itself would be plain and dark in colour.
30. In my judgement, the signage itself would be relatively simple and discreet and would not, either individually or cumulatively be unduly discordant in the street scene.
31. However, the fascia box as originally proposed in the appeal application would project some 0.25m away from the main elevation of the building in order to accommodate the shutter box. To my mind, this would appear 'top heavy' and notably out of proportion to both the host building and the simple elevations of the buildings in the immediate vicinity. As such, it would appear awkward and significantly harmful to visual amenity.
32. As noted above, however, I have had regard to the appellant's revised proposal which would allow a fascia box depth of 0.15m to be achieved whilst still being able to incorporate the existing shutter box behind. On the basis of the submitted information and my observations on site, whilst this would still

project forwards of the shopfront in contrast to the signage of neighbouring properties, it would be considerably more subtle in its effect.

33. In the context of other bulkier features being present such as air conditioning units and projecting signage in the alleyway, I find that the street scene could accommodate the proposed fascia sign without unacceptable harm arising to the visual amenity of the area. Furthermore, having regard to the statutory duty in so far as it is relevant to visual amenity, I consider the significance of the CCA would be preserved.
34. I have also taken into account the provisions of the Development Plan in so far as they are material. In this respect, I find that the sign would accord with the overall design and townscape character aims of Policy BE 13 of the CBLP. That Policy requires advertisements and signs in conservation areas to be appropriate in type, size, colour, illumination and location to the character of the building and to the surrounding area, and to be of an appropriately high standard of design, materials and finish.

Conditions

Appeal A

35. As noted above, the roller shutter has already been installed. The Council did not request the imposition of any conditions in the event of the appeal being allowed. Having regard to the Framework and the Planning Practice Guidance, I consider none are necessary.

Appeal B

36. The Council did not suggest the imposition of any non-standard conditions in the event of the appeal being allowed. However, as indicated above, it would be necessary to require the installation of the fascia sign so as to ensure it projects to a maximum of 0.15m beyond the wall of the host building. I therefore attach such a condition.

Conclusions

37. Whilst the Appeal A proposal fails to preserve or enhance the character or appearance of the CCA, the public benefits outweigh the harm. Furthermore, the benefits are also material considerations which outweigh the conflict with the Development Plan in respect of harm to the character and appearance of the host building and the wider street scene. The Appeal B proposal would not be unduly harmful to the visual amenity of the area and would preserve the significance of the CCA.
38. For those reasons, the appeals should be allowed, subject to a non-standard condition to be imposed on Appeal B.

Ian Bowen

INSPECTOR