

Appeal Decisions

Site visit made on 1 September 2021

by Roy Curnow MA BSc(Hons) MRTPI

An Inspector appointed by the Secretary of State

Decision date: 12 November 2021

Appeal A Ref: APP/Z0116/C/21/3275794

63 Park Street, Bristol BS1 5NU

- 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 Ramin Afshin of Stationery World Ltd against an enforcement notice issued by Bristol City Council.
 - The enforcement notice, numbered 20/30288/MINOR, was issued on 18 May 2021.
 - The breach of planning control as alleged in the notice is Without the grant of planning permission the siting of a shipping container on the land.
 - The requirements of the notice is Remove shipping container from land.
 - The period for compliance with the requirements is one month.
 - 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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Appeal B Ref: APP/Z0116/W/21/3275364

63 Park Street, Bristol BS1 5NU

- 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 Ramin Afshin of Stationery World Ltd against the decision of Bristol City Council.
 - The application Ref 21/01058/F, dated 24 February 2021, was refused by notice dated 27 April 2021.
 - The development proposed is Installation of a storage container at the rear of the building.
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Decisions

1. Appeal A 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.
2. Appeal B is dismissed.

Procedural Matters

3. The company name was spelt 'Stationary World' in the planning application form and both appeal forms. It appears as 'Stationery World' in further submissions and this is the name given on the fascia above the shop. Therefore, I conclude that 'Stationary' is an error and I refer to 'Stationery' in my decision. This does not prejudice either party.
4. The site lies close to a number of listed buildings. There is a statutory duty¹ to have special regard to the desirability of preserving the building or its setting

¹ S66(1) of the Planning and Listed Buildings Act 1990

or any features of special architectural or historic interest which it possesses. As such, I wrote to parties suggesting a non-binding list of listed buildings², in whose settings the container might be sited, and asking for any comments on the effects of the development on the setting of listed buildings. Each party was allowed to comment on the others' submissions; all comments received are taken into account in my decision.

5. The wording of the description of development proposed in Appeal B differs from that being enforced against in the Notice. However, it is quite clear that the two refer to the same development. For this reason, I am able to deal with the two appeals in a single notice without prejudice to either party's position.

Main Issues

6. The main issues in both appeals are the effects of the development on:
 - The character and appearance of the area, with particular regard to that of the Park Street and Brandon Hill Conservation Area (CA) and the setting of listed buildings; and
 - Highway safety.

Reasons

Character and Appearance

7. 63 Park Street is a terraced property with accommodation set over multiple floors. It fronts onto Park Street, a busy commercial thoroughfare, with a shop at ground floor level. To its rear is a concrete yard area that leads onto Hill Street. This street, which runs parallel to Park Street, slopes fairly steeply uphill from southeast to north-west.
8. In the vicinity of the appeal site, Hill Street only serves properties in Park Street. Beyond the footway on the opposite side of Hill Street is a high stone wall that retains the land that surrounds St George's Church, a Grade II* listed building.
9. Some properties in this part of Park Street have rear yards that I saw were used for storage and parking purposes. Others have extensions of varying architectural merit that run to the edge of the carriageway on Hill Street, thus filling, or largely filling, those plots. Some of the rear extensions appeared to be in residential use.
10. The shipping container that is the subject of the appeal lies adjacent to the boundary with what the plan attached to the Notice shows as being No 65. The two properties are separated by a wall. The remainder of the yard at No 63 appeared to be used for parking. Most of the walls to the yards and buildings on the Park Street side of Hill Street, including the exterior of the container, have been heavily graffitied.
11. Overall, and notwithstanding the residential properties, Hill Street in the vicinity of the appeal site has the character and appearance of a rear service lane.
12. The site lies within the extensive Park Street and Brandon Hill Conservation Area. Whilst I have been provided with a plan showing the area covered by the CA, I have not been given a copy of a conservation area statement for it. The

² The Church of St George, including its boundary walls; and Nos 57, 59 65, 67 and 69 Park Street.

CA is bounded by busy roads, including Park Street, with the large public open space around Brandon Hill at its heart. It contains areas of commercial and residential use, the latter often in impressive Georgian terraces, with a number of quite prominent and monumental landmark buildings. Its special character is largely derived from a combination of its open space, differing land uses and architecture.

13. Given the container's position within the CA and the setting of listed buildings, both of which are designated heritage assets, I am required to undertake the statutory tests set out in Sections 66(1) and 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990. Amongst other things, these require that special regard or attention shall be paid to the desirability of preserving the setting of listed buildings and of preserving or enhancing the character or appearance of the conservation area, respectively.
14. The container provides storage for the shop on Park Street. Although I have not been given a copy of a policy document showing this, the Appellant states that the shop lies in a Primary Retail Frontage and that policies state that retail use should be supported here. The Council has not countered this, and I take it to be the case. The provision of storage to support the shop is, therefore, a matter that weighs in favour of the retention of the container.
15. The rear elevation of No 63 and its yard area are entirely unprepossessing and functional, as is the case with a number of the properties in this part of Park Street. However, it appeared to me that, save for the appeal site, storage and other uses to the rears of all of these properties were accommodated in what might be termed 'bricks and mortar' buildings, rather than in containers or other more temporary looking buildings.
16. As such, the development is out of keeping in the street scene. Although not prominent in longer distance views along Hill Street, it is readily seen when one is closer to the appeal site and its presence is stark and jarring. It is not, therefore, as appropriate a form of storage as any other, as claimed by the Appellant. It neither delivers high quality urban design nor an attractive built environment, which are amongst the requirements of the Bristol Development Framework Core Strategy 2011 (CS) Policy BCS21 and Policy DM27 of the Site Allocations and Development Management Policies Local Plan 2014 (DMP). It does not respond appropriately to its setting in the manner required by DMP Policy DM26.
17. Rather than preserving or enhancing the character or appearance of the CA, the container causes harm to it. Thus it is also contrary to CS Policy BCS22 and DMP Policy DM31, which reflect the statutory test in S72(1). However, in the words of the National Planning Policy Framework³, (the Framework), this harm is less than substantial. In these circumstances, the harm has to be weighed against the public benefits associated with the development. Here, I take the provision of storage for a shop in a Primary Retail Frontage to be a public benefit. On the other side of the equation, paragraph 199 of the Framework sets out that great weight should be given to the asset's conservation. From the evidence before me, the public benefit arising from the siting of the container is clearly and demonstrably outweighed by the harm to the CA.

³ July 2021 version, paragraph 202

18. Neither party added to those listed buildings that I identified in my consultation. The statutory list shows that 57 and 59 Park Street are Grade II listed and were a terrace of two houses, now with 20th century shopfronts. It refers to severe WWII bomb damage in Park Street and subsequent partial rebuilding in facsimile. The entry in the statutory list for 65, 67 and 69, again Grade II listed, is very similar.
19. The map associated with the online statutory list refers to the Church of St George, including its boundary walls as being listed. The list details do not refer to the boundary walls and there is a separate listing for walls fronting Charlotte Street, to its northwest, and those fronting Great George Street, to its southeast. There is no reference in the list to the roughly 4m high stone retaining wall above Hill Street that retains the church grounds. As such, and in the absence of evidence to the contrary, I do not find this to be listed.
20. The church, now used for other purposes, is Grade II* listed and stands proudly in its former yard. It is in the Greek Revival style, dating from the early 1820s, with feature Doric columns, pediment, semi-circular arched windows and a round lantern. A later, modern extension lies on its northeast side, above Hill Street. It is a very significant building playing an important role in the local townscape.
21. Given the abrupt change in levels between Hill Street and the church yard, the container is not visible from the church but is from within its former churchyard. The rears of the buildings in Park Street are well-described by the appellant as being "utilitarian". Notwithstanding these points, I find that the container does lie within their settings. This is an important consideration, especially given the grade of listing for the church.
22. The container is a small development that has an effect over a limited area. Given this and its siting behind a wall, it has a neutral effect on the setting of the listed buildings on Park Street. Also taking into account the change in levels, I find similarly with regards to the setting of the Church of St George.
23. My finding on the question of the effect of the container on the settings of the various listed buildings is, therefore, that their special interests would be preserved in accordance with the statutory test in S66(1). Therefore, in this regard, the development would accord with the terms of CS Policy BCS22 and DMP Policy DM31.
24. My overall conclusion on the character and appearance of the area is that the container has a harmful effect on the CA. Although this harm is less than substantial, this is not outweighed by the limited public benefits arising from its siting. The special interest of the listed buildings in the vicinity of the site would be preserved, as there is a neutral effect on their settings.

Highway safety

25. From the submissions, both sides agree that when its doors are closed the container lies wholly within the appeal site. I have not been provided with evidence that gives a definitive position of the boundary between the appeal site and the public highway. The concrete apron to the rear of No 63 gives onto a shallow cobbled gutter beyond which is tarmac, on which yellow lines have been painted. I also saw that areas of concrete to the rears of nearby properties extend as far as the cobbled gutter at the appeal site. In the

absence of evidence to the contrary, to my mind, the edge of the tarmac represents the highway boundary.

26. The Appellant claims there is 1m between the edge of the highway and the container in its unopened state. Therefore, he states, the doors when opened do not cross the highway. The Appellant's statement of case (SoC) shows that when fully opened the doors are not on or above the highway. However, when they are being opened, they swing over it. This is illustrated in a photograph in the SoC⁴ that shows a door in a partially open position when it not only overhangs the tarmac but also the first of the two yellow lines. Therefore, I find that the doors do overhang the highway when they are partially open or being opened.
27. Although I have not been given a copy of the response of the Council's Transport Development Management (TDM), the Delegated Report states that it says that any structure opening directly onto the highway must have either a sliding or roller shutter door. This, it states, is so that when open they would not form an obstruction to highway users. The container has side-hung doors.
28. The TDM's reasoning differs from that given in the Notice and the decision on the planning application. Both of these describe the effect as being a "danger to highway users", rather than the "obstruction" described by the TDM.
29. The container's doors overhang the highway to a very small degree. I saw that this was no greater than is the case with the large number of waste bins along the Park Street side of Hill Street. Although, as suggested by the TDM, this might cause an obstruction in the highway, it is very small. I do not equate this with causing highway danger. I saw that pedestrians could use the footway on the other side of Hill Street, and that all vehicle users on the carriageway would have plenty of room to pass the container without danger arising were its doors to be partially ajar.
30. Although I understand the TDM suggestion for the type of doors that should be provided in such locations, neither CS Policy BCS10 nor DMPLP Policy DM23 contain this requirement.
31. When being accessed, the doors of the container open onto the highway. However, this is to a minimal degree and does not result in danger to highway users on Hill Street. Thus, the development accords with the overall aim of CS Policy BCS10 that development should not give rise to unacceptable traffic conditions and the aim of DMPLP Policy DM23 to provide safe streets.

Conclusion

32. For the reasons given above, I conclude that Appeal A 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.
33. Appeal B is dismissed.

Roy Curnow

Inspector

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