



Appeal Decisions

Site visit made on 8 February 2023

by Paul Thompson DipTRP MAUD MRTPI

an Inspector appointed by the Secretary of State

Decision date: 13 February 2023

Appeal A: APP/J0405/H/22/3298782

40-41 Nelson Street, Buckingham, Buckinghamshire MK18 1DA

- 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 Mr J Arora against the decision of Buckinghamshire Council - North Area (Aylesbury).
 - The application Ref 22/00330/AAD, dated 31 January 2022, was refused by notice dated 1 April 2022.
 - The advertisement proposed is new fascia sign, projected sign and 2 board signs (hoarding) below bay window.
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Appeal B: APP/J0405/Y/22/3298781

40-41 Nelson Street, Buckingham, Buckinghamshire MK18 1DA

- The appeal is made under section 20 of the Planning (Listed Buildings and Conservation Areas) Act 1990 against a refusal to grant listed building consent.
 - The appeal is made by Mr J Arora against the decision of Buckinghamshire Council - North Area (Aylesbury).
 - The application Ref 22/00328/ALB, dated 31 January 2022, was refused by notice dated 1 April 2022.
 - The works proposed are described as 'the consent is required for installation of non-illuminated 2 advertisement boards below the bay window'.
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Decision

Appeal A

1. That part of the appeal that relates to display of projected sign and 2 board signs (hoarding) below bay window is dismissed. That part of the appeal that relates to display of fascia sign as applied for is allowed and express consent granted for its display. 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.

Appeal B

2. That part of the appeal that relates to display of projected sign and 2 board signs (hoarding) below bay window is dismissed and listed building consent is refused for display of projected sign and 2 board signs (hoarding) below bay window. That part of the appeal that relates to display of fascia sign is allowed and listed building consent is granted for display of fascia sign at 40-41 Nelson Street, Buckingham, Buckinghamshire MK18 1DA, in accordance with the terms of the application Ref 22/00328/ALB dated 31 January 2022 and the plans submitted with it.

Procedural Matters

3. Despite the descriptions of the proposal outlined in the banner headings above, I consider the description found on the Decision Notices better reflects the scheme that is before me and that which the Council considered, but I have corrected the spelling of fascia to that found in its guidance. The proposal is therefore for 'display of fascia sign, projected sign and 2 board signs (hoarding) below bay window' and I have dealt with the appeal on this basis.
4. The Regulations¹ and National Planning Policy Framework (the Framework) state that advertisements should be subject to control only in the interests of amenity and public safety, taking account of cumulative impacts. Factors relevant to amenity include the general characteristics of the locality, including the presence of any feature of historic, architectural, cultural or similar interest². Moreover, while the statutory duty under s66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 does not apply to this appeal, the setting of a listed building is likely to be a relevant material consideration when considering the effect on 'amenity'. Similarly, the policy in paragraphs 197-202 of the Framework does not need to be considered when determining advertisement consent appeals within a conservation area or in relation to a listed building, as the policy only applies to the heritage-related consent regimes under the Act. This is therefore not relevant to Appeal A.
5. As a listed building appeal, Appeal B is not subject to section 38(6) of the Planning and Compulsory Purchase Act 2004. Accordingly, it does not need to be determined in accordance with the development plan. This is further confirmed by the lack of a requirement in section 16(2) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the Act) to have regard to the development plan when determining applications and appeals for listed building consent. Policy BE1 of the Vale of Aylesbury Local Plan 2013-2033³ (VALP) and the Aylesbury Vale District Council Design Guide (Shop Front) (the DG) referred to by the Council are therefore material considerations only.
6. As referred to on the Decision Notice relevant to Appeal B, Section 72(1) of the Act confers on the decision maker a statutory duty to pay special attention to the desirability of preserving or enhancing the character or appearance of a conservation area. I have therefore had regard to this in determining Appeal B.

Main Issues

7. The main issues for Appeal A are the effect of the proposed fascia, projected and hoarding advertisement signs on the amenity of the area, with particular regard to the listed status of 39 and 40-41 Nelson Street and the Church of St Peter and St Paul, and the extent to which the character or appearance of the Buckingham Conservation Area would be preserved or enhanced.
8. The main issue for Appeal B is whether the proposal would preserve the special interest of the Grade II listed building, known as '40-41 Nelson Street', including its setting, the setting of the listed buildings known as the 'Church of St Peter and St Paul' and '39 Nelson Street', and the extent to which the character or appearance of the Buckingham Conservation Area would be preserved or enhanced.

¹ The Town and Country Planning (Control of Advertisements) (England) Regulations 2007

² Regulation 3(2) of The Town and Country Planning (Control of Advertisements) (England) Regulations 2007

³ September 2021.

Reasons

Special Interest, Significance and Character and Appearance

9. The appeal concerns 40 and 41 Nelson Street, a Grade II listed two-storey shop and dwelling, constructed of whitewashed brick, with banding between storeys and coggled eaves. It likely originates from the early-19th Century or possibly earlier, but with 20th Century alterations, including its shopfront with two bay windows and a central door, all below a cornice. Despite its alteration, the special interest of the listed building is found in its architectural and historic interest, as a 19th Century or possibly earlier shop and dwelling.
10. The listing description for the Grade I listed Church of St Peter and St Paul provides a very detailed account of its exterior, interior, principal fixtures, and history, all of which contribute to its special interest. However, as far as this is relevant to the appeals before me, its special interest is to be found in its striking architectural proportions and detailing. It originates from the late-18th Century, but was extensively altered in a geometric style by George Gilbert Scott in the mid-19th Century. It also draws special interest from its setting, which extends some way beyond its yard due to surrounding topography and it towers over buildings to its south and west, including the appeal building and others in Nelson Street that are prominent in the foreground of views up to it.
11. The property at No 39 is Grade II listed and of three-storeys. It too is a shop and dwelling but, unlike the subject listed building, it has a traditional shopfront with timber detailing from the ground up to its cornice, including pilasters. It does not include a fascia sign but there are illuminated neon signs in each of the windows advertising the use of the building as a takeaway. As far as it is relevant to the appeals before me, its special interest lies in its architecture and history as an early-19th Century shop and dwelling with later alterations. It also draws interest from its setting, which includes but is not limited to its immediate environs within Nelson Street. The appeal building, being next door, therefore contributes to its setting.
12. All three listed buildings are situated in the Buckingham Conservation Area (CA), which covers the majority of the historic settlement around its high street and squares, but also includes the University of Buckingham campus. The significance of the CA is derived from the rich legacy of historic structures, particularly the varied architecture and scale of buildings, which contribute to the character of the historic market town. Although the rhythm of buildings has been interrupted by some modern shopfronts lacking in historic qualities, many of these buildings have retained their verticality and articulation from street level to their roofs, particularly in respect of the presence and visibility of shopfronts, whether traditional or modern. While there are various forms of signage in the CA, including applied lettering to fascia boards of differing forms, this does not detract from the townscape qualities. However, illuminated signage does not appear to be a prevalent feature of the CA. The appeal property incorporates a simple shopfront with bay windows, but is prominent within a continuous terrace of buildings east of Nelson Street, including No 39, so they make a positive contribution to the wider character and appearance of the CA, especially given the contrast they provide within the foreground of striking views up to the church.

Effect of the Proposed Projected and Hoarding Signs (Both Appeals)

13. The appeal building is not within a commercial part of the town but its historic importance, reflected in its individual and CA designation, requires a careful approach to signage, particularly where listed buildings are also involved.
14. There was a projecting sign previously in place at the property, but it appeared to be slenderer than that now proposed. It is also unclear, from the details before me, whether it was internally illuminated. Similarly, the information provided from an application of 1987 does not precisely indicate what was in place at that time. Notwithstanding this, the depth of the box of the proposed projected sign means it would be visually prominent and contrast with more muted hanging signage found elsewhere in the CA. Despite their position at a low level on the façade of No 40-41, the size and design of the proposed hoarding signs would be incongruous and visually intrusive. They would occupy large areas of the lower façade of Nos 40-41 and stand out next to No 39.
15. The proposed projected and hoarding signs would therefore unnecessarily disrupt the façade of the appeal building and appear as dominant features, which would be harmful to the appearance and, thereby, the special interest of Nos 40-41 and the setting of No 39, which would equate to harm to the amenity of the area. Although they would be present within the foreground of the important view up to the church, given their scale and extent, they would have a negligible effect on its overall setting.
16. Unlike listed buildings, the significance of a CA is more widely experienced. Under such circumstances, proposals must be judged according to their effect on a CA as a whole and must therefore have a moderate degree of prominence. The proposed signs would be highly visible in a prominent location on one of the principal routes into the town. These signs would therefore detrimentally effect the character and appearance of the CA and not preserve its significance as a heritage asset. This would also equate to harm to the amenity of the area.
17. I note that building façades to the east of Nelson Street are painted a mix of colours, some being darker shades, and these are prominent within the street. However, this is a common characteristic of the CA and does not harm its character or appearance. The consistency of the colour palette of each façade is also different to the variance that would be brought by the proposed signage.
18. I am not aware of the status of the neon signs and posters displayed inside the shop windows of No 39, but their presence does not alter my conclusions regarding the harm that would be caused by the projected and hoarding signs for reasons stated above. Similarly, while I have been referred to several appeal decisions for signage in other local authority areas, they are not comparable with these aspects of the proposal and, in any event, I have considered the individual merits of the proposal in light of the evidence before me and these decisions do not warrant consent being allowed. Moreover, the scheme at Whitechapel Road in London⁴ differs regarding its setting in a vibrant and commercial road, but was also to be displayed high up on an eleven-storey unlisted building. Furthermore, the appeals in Telford⁵ were for non-illuminated signs, including a traditional hanging sign, not an internally illuminated box;

⁴ Appeal Reference: APP/E5900/H/20/3255606.

⁵ Appeal References: APP/C3240/Y/20/3252965 and APP/C3240/H/20/3252964.

and the advertisements in Uxbridge⁶ were internally illuminated acrylic letters and window graphics.

Public Benefits and Conclusions on the Projected and Hoarding Signs (Appeal B)

19. The statutory duties in Sections 16(2) and 72(1) of the Act are matters of considerable importance and weight, as are paragraphs 197 and 199 of the Framework. The proposed works would be harmful to the special interest of the Grade II listed buildings and the character and appearance of the conservation area, which would have a negative effect on their significance as designated heritage assets. The harm I have identified, would equate to less than substantial harm to their significance and paragraph 202 of the Framework identifies this harm should be weighed against the public benefits of proposals.
20. I have taken into account that the colours of the hoarding signs and the new projected sign reflect the identity of the appellant's business. I also appreciate that the business may bring customers to the area and reduce the need to travel for the services offered. However, there is no convincing evidence before me that the proposed signage is essential for the continued economic viability of the business, or in maintaining the site in beneficial use or access for the public. Furthermore, the detail on the hoardings of the services and goods available could already be fulfilled by the rectangular signage in frames at a higher level. Any such benefits which would arise would not therefore outweigh the harm to the designated heritage assets.
21. Given the above, I conclude that the aspects of the proposal concerning the projected and hoarding signs would fail to preserve the special interest of the Grade II listed building, 40-41 Nelson Street, the setting of the Grade II listed building, 39 Nelson Street, and would have a harmful effect on the character and appearance of the CA. Hence, the proposal fails to satisfy the requirements of sections 16(2) and 72(1) of the Act, paragraphs 136, 197 and 199 of the Framework and the heritage aims of VALP Policy BE1.

Conclusions on the Projected and Hoarding Signs (Appeal A)

22. In respect of Appeal A, I conclude that the aspects of the proposal concerning the projected and hoarding signs would harm the amenity of the area, with particular regard to the listed status of 39 and 40-41 Nelson Street and the character and appearance of the CA. I have taken into account the provisions of VALP Policy BE1 and the DG, so far as they are material, in accordance with the Regulations⁷ and, given that these aspects of the proposal would harm the amenity of the area, they would conflict with the heritage aims of the policy and fail to accord with Framework paragraphs 136, 197 and 199.

Effect of the Proposed Fascia Sign (Both Appeals)

23. The fascia board above the cornice atop the bay windows and entrance door is of a simple form and similar in length to the cornice. It is finished in a bright white colour. The principal changes to the previous sign appears to be lettering added with the name of the current business and small sentence of text to its right end. The green and white lettering on a green background to the left appear to be identical to those previously in situ in the same location on the fascia. The evidence before me shows the braced joints in the fascia either side

⁶ Appeal References: APP/R5510/H/18/3216258 and APP/R5510/Y/19/3243166.

⁷ Regulation 3(1) of The Town and Country Planning (Control of Advertisements) (England) Regulations 2007.

of the sign previously in place for 'Costcutter'. It does not therefore appear to be a replacement fascia, but equally does not appear to have consent.

24. I do not find the white finish of the fascia to be brash or distasteful in its sensitive context, particularly as a similar finish could be experienced with other materials and a painted finish. While the lettering is orange and green in colour, it is slender, individually applied, and modest in size in comparison to the overall fascia. It would also be similarly sized to those included on a board affixed to the fascia for Costcutter, and others elsewhere in the CA. Although the method of illumination of the fascia would change from swan neck lighting to modern LED downlighters, these would not be overly prominent or bright for a lit location at 250cd/m² and some lighting would be expected given the late opening hours of the business and the small nature of its display windows. Given these factors, the fascia sign would not be harmful to the setting of either of the other listed buildings, which would be preserved.

Conclusions on the Fascia Sign (Appeal A)

25. In respect of Appeal A, given the above, I conclude that the aspects of the proposal concerning the fascia sign would not harm the amenity of the area, with particular regard to the listed status of 39 and 40-41 Nelson Street and the Church of St Peter and St Paul, and the character and appearance of the CA. I have taken into account the provisions of VALP Policy BE1 and the DG, so far as they are material, in accordance with the Regulations and, given that the proposal would not harm the amenity of the area, it would accord with their design and heritage aims and Framework paragraphs 136, 197 and 199.

Conclusions on the Fascia Sign (Appeal B)

26. Regarding Appeal B, given the above, I conclude that the aspects of the proposal concerning the fascia sign would preserve the special interest of the Grade II listed building, 40-41 Nelson Street, the setting of the Grade II listed building, 39 Nelson Street, and would not have a harmful effect on the character and appearance of the CA. Hence, the proposal would satisfy the requirements of sections 16(2) and 72(1) of the Act, paragraphs 136, 197 and 199 of the Framework and accord with the heritage aims of VALP Policy BE1.

Conditions (Fascia Sign Only)

27. In the decision for Appeal A, I have specified the standard conditions required by the Regulations⁸ are included. Conditions for plans are unnecessary, as the fascia has been implemented and the plans are referred to in the decision for Appeal B. The conditions for materials, including non-reflective surfaces for non-illuminated signs are not relevant as it is illuminated and already installed.

Conclusion

28. For the reasons given above, I conclude that both appeals should be allowed insofar as they relate to the proposed fascia sign, but dismissed insofar as they relate to the proposed projected and hoarding signs.

Paul Thompson

INSPECTOR

⁸ Regulation 14(a) of The Town and Country Planning (Control of Advertisements) (England) Regulations 2007.