



Appeal Decisions

Site visit made on 16 May 2023

by J J Evans BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 5 June 2023

Appeal A Ref: APP/F0114/Y/22/3301460

The Architect, The Empire, Orange Grove, Bath BA1 1LP

- 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 Ms Dee Sturman of Brunning and Price Ltd against the decision of Bath and North East Somerset Council.
- The application Ref 22/00727/LBA, dated 17 February 2022, was refused by notice dated 1 June 2022.
- The works proposed are 1 set of externally illuminated text to front elevation, 2 sets of non illuminated sign written text to entrance canopy, 1 externally illuminated post mounted sign.

Appeal B Ref: APP/F0114/H/22/3301464

The Architect, The Empire, Orange Grove, Bath BA1 1LP

- 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 Ms Dee Sturman of Brunning and Price Ltd against the decision of Bath and North East Somerset Council.
- The application Ref 22/00722/AR, dated 17 February 2022, was refused by notice dated 1 June 2022.
- The works proposed are 1 set of externally illuminated text to front elevation, 2 sets of non illuminated sign written text to entrance canopy, 1 externally illuminated post mounted sign.

Decision

1. Appeal A: the appeal is dismissed insofar as it relates to the one set of externally illuminated text to the front elevation. The appeal is allowed insofar as it relates to the two sets of non-illuminated sign written text to the entrance canopy.
2. Appeal B: the appeal is dismissed insofar as it relates to the one set of externally illuminated text to the front elevation. The appeal is allowed insofar as it relates to the two sets of non-illuminated sign written text to the entrance canopy.
3. Listed building consent is granted for the two sets of non-illuminated sign written text to the entrance canopy at The Architect, The Empire, Orange Grove, Bath, BA1 1LP, in accordance with the terms of the application Ref 22/00727/LBA, dated 17 February 2022, so far as relevant to that part of the works hereby permitted and the plans

submitted with it, and subject to the conditions attached in the Schedule to this decision.

4. Advertisement consent is granted for the two sets of non-illuminated sign written text to the entrance canopy at The Architect, The Empire, Orange Grove, Bath, BA1 1LP, in accordance with the terms of the application Ref 22/00722/AR, dated 17 February 2022, so far as relevant to that part of the works hereby permitted. The consent is for five years from the date of this decision and is subject to the five standard conditions set out in the Town and Country Planning (Control of Advertisements) (England) Regulations 2007 (the Regulations), and the conditions attached in the Schedule to this decision.

Preliminary Matters

5. It was apparent from my visit that new signage had been installed above the conservatory and upon the entrance canopy. However, there are differences between the installed signage and that proposed with regard to the lettering upon the canopy. Consequently, I have confined myself to the consideration of the appeal proposal before me, rather than what has occurred on site.
6. The original applications described the appeal property as The Architect, with the Council referring to the property as Garfunkels. Apart from the name, the address of the property remains the same, and I note that the works are required to reflect re-branding. At my site visit I saw that the property is now known as The Architect. I have referred to this address above.
7. The description of works referred to above is taken from the original application forms. During the Council's consideration of the cases the works were amended to exclude the externally illuminated post mounted sign. The Council considered the works on that basis, and for the avoidance of doubt, so shall I.
8. As set out above, there are two appeals on the same site, one for advertisement consent and the other for listed building consent. I have considered each proposal on its individual merits, although to avoid duplication I have dealt with the two schemes together, except where otherwise indicated.
9. The Empire Hotel is a grade II listed building within the Bath Conservation Area. As required by Sections 16 and 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the Act) I have paid special regard to the desirability of preserving a listed building or its setting or any features of special architectural or historic interest which it possesses, and of preserving or enhancing the character or appearance of a conservation area. The Town and Country Planning (Control of Advertisements) (England) Regulations 2007 (the Regulations) advise that factors relevant to amenity include the general characteristics of the locality, including the presence of any feature of

historic, architectural, cultural or similar interest. This would encompass listed buildings and conservation areas.

Main Issues

10. The main issues with both appeals are the effect of the works on public amenity, having regard to whether the works would preserve the special architectural or historic interest of a listed building, and linked to that, whether they would preserve or enhance the character or appearance of the Bath Conservation Area.

Reasons

11. The Empire is a large, tall building occupying a corner plot in the centre of Bath. This former purpose-built hotel is one of several impressive buildings near to the River Avon that comprise part of the distinct identity of the city centre. The building's principal entrance is from Orange Grove, and the signage would be installed upon the entrance canopy and above the conservatory.
12. Constructed of ashlar stone, the size and height of the former hotel makes it an integral part of the city centre. Along with the Guildhall and Bath Abbey, the building is a landmark building, with its free renaissance exterior giving it a unique appearance. It is a distinctive building, and particularly so as many of the surrounding ones have a mannered classical style. There are long views of the building within the area, including of the frontage, and it particularly dominates views when approaching from the south. The unique appearance of the building, its high quality, impressive form in such a prominent position, and its construction from Bath stone, are all part of the significance of this listed building.
13. The ground floor is now used as a restaurant and bar, with the upper floors being residential. This mixed use complements the rich diversity of uses that are a characteristic of the conservation area. The distinctive appearance of the building and its strong physical presence is such that it positively contributes towards the historic nature of the city centre. The diverse uses within the city centre, including the cluster of high quality, important social and cultural buildings, along with the repeated use of Bath stone, are all part of the significance of the conservation area.
14. The proposed works comprise two discrete elements. There would be two non-illuminated signs in the glass to either side of the entrance canopy, whilst above the conservatory there would be an externally illuminated sign. From my site inspection it was apparent that signs within the entrance canopy had been installed, albeit they were different to those that are the subject of the appeals.
15. Notwithstanding the works that have occurred on the entrance canopy, those proposed would have an appearance and style that would accord

with the canopy and with the main building. The use of glass with black sign written text would maintain the transparent, light-weight appearance of the canopy. The small paned glass sections and the black coloured sign written text upon clear glass would complement the traditional materials of the canopy, as well as harmonising with its colour scheme and the stone. The current use of the building would be legibly conveyed in a way which would retain the historic, high quality form of this listed building. Given this, the canopy signage would preserve the character and appearance of the conservation area, and the general characteristics of the locality.

16. Turning now to the externally illuminated sign over the conservatory, the sign and lighting bar has been positioned within a metal framed strip. This strip has ornate metal work either end and as it is above the fascia of the conservatory it makes an eye-catching statement. The position of the strip along with the use of shiny, black acrylic letters upon a white coloured background makes the sign particularly prominent. Whilst the appellant considers that black and white are traditional colours for signs, in this case the stark contrast of the shiny black letters on a white background appears unduly prominent upon a building that is constructed of Bath stone. This strident contrast is harmfully exaggerated on bright sunny days due to the reflective effect of the lettering.
17. The purpose of signage is to draw the eye, but in this case the colour and materials would have an unacceptably distracting impact. Although the colours would relate to the white of the conservatory, the elevated positioning of the sign deliberately sets it apart. As such the discordant prominence of the sign has been exaggerated, and it is visible from long distances away. Furthermore, the impact of the sign is particularly noticeable given that most of the other commercial premises within the nearby area have modest, traditionally styled signs that harmonise not only with the host building but also with the historic, high quality appearance of this part of the conservation area. In an area dominated by historic buildings constructed from the muted hues of Bath stone, the modern materials and bright colour scheme of the sign would be particularly incongruous.
18. Moreover, the presence of the long trough light to illuminate the sign has a conspicuous impact. It might be the case that luminance levels could be controlled, but this would do little to mitigate the harmful impact of the presence of the light strip. The light has a cumbersome relationship to the text, forming a horizontal bar that appears to compress the top of the text. When combined with the presence of a shadow from the light strip, from certain viewpoints the text is partially obscured, causing a curiously confused impact. Even when there is no shadow, the lettering of the text appears constricted by the light strip, an impact which makes a striking contrast with the carefully composed style and appearance of this listed building.

19. The sign would be on the conservatory which is a recent extension, and there would be no loss of historic fabric nor damage to the main building. These are positive attributes of the scheme, but they do not mitigate the unacceptable harm to the significance of the listed building. As the sign is a conspicuous addition within an area that has a harmonious, high quality historic appearance, it also unacceptably harms the locality and the character and appearance of the conservation area.
20. There have been a variety of signs on the building, albeit those permitted in 2014 have now been removed. However, there are a number of differences between the appeal proposals and the sign that was permitted in 2014, including that it was internally illuminated, with the panel being red and yellow in colour. The previous sign would have had a very different impact, and given these differences, it does not determine approval of the appeal schemes, particularly as since that time government policy and guidance has altered.
21. The National Planning Policy Framework (the Framework) requires that when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation. The scheme would harm the significance of the listed building and the character and appearance of the conservation area. This would be less than substantial harm given the size of the listed building and that of the conservation area as a whole. However, this harm would be of considerable importance and has to be weighed against the public benefits of the proposal. The appellant refers to the signs being a commercial necessity, providing employment and economic viability, which would be public benefits. However, the appellant has not demonstrated how and why this particular sign is so essential for the vitality of the business, nor why such a role could not be achieved through alternative signs. Furthermore, the business is currently a use for only a part of the building, and the continued viable use of the building is not dependent on the works as it has other ongoing uses. Consequently, the small public benefits arising from the scheme would not outweigh the harms that I have identified.
22. For these reasons, the sign above the conservatory would unacceptably harm the visual amenity of the area, and would neither preserve nor enhance the character or appearance of the conservation area, nor preserve the significance of the listed building. There would be no public benefits that outweighs this significant harm. Given the size, materials, lighting and form of the sign, the conditions suggested by the parties, including those to control illumination would not ameliorate the harm that would arise.
23. The main parties have referred to a number of development plan policies, and also the Council's Design and Conservation Guidance (2016). The latter is informal planning guidance that provides advice for achieving betterment and improvements in the conservation area. Whilst acknowledging the status of this guidance, it provides advice to

support the application of Policy D9 of the Council's Placemaking Plan (2017) (PP).

24. Of the policies referred to, I have taken them into account as material considerations in the determination of the appeals, albeit development plan policies are not determinative in listed building and advertisement cases. For the reasons stated above, the conservatory sign would fail to accord with PP Policies HE1 and D9 as these require amongst other things, that development sustains and enhances the significance of listed buildings, and preserves or enhances those elements of the conservation area that contribute to its special character and appearance, and ensuring that signs consider their context. Objectives of the Framework seek to control advertisements in the interests of amenity and public safety, recognising that the quality and character of places can suffer when advertisements are poorly sited and designed. As the sign would unacceptably harm the character and appearance of the area, it would fail to accord with neither the aims of the Framework nor with those of the PP.

Other Matters

25. The appeal property is within the City of Bath World Heritage Site. Given the modest size of the proposed sign when compared to the extent of the World Heritage Site, the proposal would not result in significant harm to the outstanding universal values of this designation.
26. Finally, the appellant has raised concerns regarding the Council's handling of the applications, including consistency of decision making. Such concerns fall to be pursued by other means separate from the appeal process and are not for me to consider.

Conditions

27. The conditions suggested by the Council have been considered against paragraph 56 of the Framework. Where necessary and in the interests of clarity and precision they have been altered to better reflect these requirements.
28. The standard time condition has been imposed on the listed building consent, as has one requiring the development to be carried out in accordance with the approved plans, so as to avoid doubt and in the interests of proper planning. A condition has also been imposed to ensure that the materials used in the signs on the entrance canopy are as described on the approved plans so as to maintain the character and appearance of the conservation area and the significance of the listed building.
29. As regards the advertisement consent appeal, the consent is subject to the standard conditions as set out in the Regulations. Conditions requiring the development to be carried out in accordance with the approved plans and the details of materials thereon has been imposed,

so as to avoid doubt and in the interests of proper planning, and to ensure the works harmonise with public amenity.

Conclusion

30. The works involve a number of different elements that are physically and functionally independent. In this respect I find the two sets of non-illuminated sign written text to the entrance canopy to be acceptable and clearly severable from the one set of externally illuminated text to the front elevation. Therefore, I propose to issue a split decision in this case and grant listed building consent and advertisement consent for the two sets of non-illuminated sign written text to the entrance canopy, but dismiss the appeals insofar as they relate to the externally illuminated text to the front elevation.
31. Thus, for the reasons given above, and having considered all other matters raised, the appeals are part allowed and part dismissed.

J J Evans

INSPECTOR

Schedule of Conditions for Appeal A

- 1) The works authorised by this consent shall begin not later than 3 years from the date of this consent.
- 2) The works hereby permitted shall only be implemented in accordance with the following approved plans:
 - Location Plan dated 11 February 2022;
 - Site Plan (drawing number 596506-3 Rev A);
 - Existing Signage (drawing number 596506-1 Rev A); and
 - Proposed Signage (drawing number 596506-2 Rev A).
- 3) The external surfaces of the works hereby permitted shall be constructed in the materials shown on drawing number 596506-2 Rev A.

Schedule of Conditions for Appeal B

- 1) The works hereby permitted shall only be implemented in accordance with the following approved plans:
 - Location Plan dated 11 February 2022;
 - Site Plan (drawing number 596506-3 Rev A);
 - Existing Signage (drawing number 596506-1 Rev A); and
 - Proposed Signage (drawing number 596506-2 Rev A).
- 2) The external surfaces of the works hereby permitted shall be constructed in the materials shown on drawing number 596506-2 Rev A.