The Planning Inspectorate

Appeal Decision

Site visit made on 6 September 2023

by G Powys Jones MSc FRTPI

an Inspector appointed by the Secretary of State

Decision date: 21st September 2023

Appeal Ref: APP/U3935/Z/23/3326294
28 High Street, Old Town, Swindon

- 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 Alan Mok against Swindon Borough Council.
- The application Ref S/ADV/23/0067, dated 1 February 2023, was refused by notice dated 31 May 2023.
- The advertisements are described as display of fascia sign with internally illuminated Lettering 'Kioki' and awning with lettering Kioki/bar/lounge/club.

Decision

1. The appeal in respect of the awning with lettering Kioki/bar/lounge/club is dismissed.

2. However, consent is granted for the display of fascia sign with internally illuminated Lettering 'Kioki' as applied for. The consent is subject to the five standard conditions set out in Schedule 2 of the Regulations and to the following additional condition:

   1). The illumination of the advertisement shall be static at all times.

Preliminary matters

3. The two advertisements subject of the appeal are already on display and the appellant, in effect, wishes to retain both. I shall proceed on this basis.

4. In the interests of accuracy, and since the appellant agreed to amend the description of the advertisements used in the original application form, I have adopted the description of the display used in the Council's decision notice. In this respect the original application sought consent for some downlighters, but this aspect has been removed from the scheme before me.

5. Reference has been made to the *National Planning Policy Framework.* Its guidance underlines the fact that the powers under the current Regulations to control advertisements may be exercised only in the interests of amenity and public safety. In this context, the development plan policies and guidance[1] referred to have been treated as material considerations.

6. The Council raises no concerns with regard to public safety but is concerned with amenity. I have no reason to disagree with the Council's stance in respect of public safety.

[1] Policies DE1 & EN10 of the Swindon Local Plan and The Swindon Shopfront Coding Guidance

7. The appeal site is located within the Old Town Conservation Area (CA), and I am therefore required to pay special attention to the desirability of preserving or enhancing its character or appearance. The appellant's reference to what is regarded as an error in the reason for refusal is noted. However, I am required to consider the effect of the advertisements on the setting of the nearby Bell Hotel, which is listed for its architectural and historic significance (*Grade II*).

Main issue

8. The main issue is the effect of the advertisements on the amenity of the locality.

Reasons

9. The appeal premises is sited in a busy street in the centre of the Old Town, where commercial properties predominate. Some buildings are of a modern appearance, and others appear run down, but most of the buildings in this part of the town have retained their distinctive historical character, and many are listed, as noted and identified in the appellant's Heritage Impact Assessment. Both advertisements are displayed on the front elevation of a night club, which is sandwiched between two relatively modern buildings, one being a supermarket and the other containing a restaurant on the ground floor.

10. The first advertisement is an internally illuminated fascia sign with the name of the night club shown in cut-out lettering. It is placed above the front door of the club, its main entrance, just below the middle first floor window of three in the front elevation. It is a modestly sized sign, and in my view, entirely proportionate in scale to that of the building to which it is affixed. Its siting interferes with what the Council describes as the corbels of the first floor window. I do not consider these to be such distinctive features as to be worthy of protection in their own right, particularly since the features are also evident on the other two first floor windows. The degree of illumination is relatively low and to my mind the sign has had no harmful impact on the character and appearance of the CA, or the setting of any listed building.

11. The awning spreads across virtually the entire width of the front elevation. Its positioning is such that it blatantly interferes with the form and features of the two distinctive window openings on either side of the front door. Its' colour is described by the appellant as '*natural green'*, but I found it to be garish in the cold light of day. The appellant considers it to be a typical shop front feature, not uncharacteristic of town centres. To my mind, however, it is a badly fitted and poorly positioned feature which has damaged the pleasant appearance of the building and has harmed the character and appearance of the CA. It also harms the setting of the nearby Bell Hotel.

12. For the above reasons, and since the signs are clearly separate and distinguishable, I intend to allow the continued display of one of the advertisements, but to refuse consent for the other.

13. With regard to the awning, I appreciate the function it performs and that it may assist beneficially, as described by the appellant, in contributing to the club's contribution to the local night-time economy. However, this and the other practical benefits of the awning does not outweigh the harm I have found.

14. The consent is subject to the standard conditions. The Council has suggested additional conditions. The first refers to spotlights, which are not part of the

appeal proposals. Given the Council's comments as to the acceptable level of illumination with regard to amenity, and my assessment that the fascia sign, in view of its siting and positioning would not cause '*dazzle and glare'*, the Council's second proposed condition is considered unnecessary. The display, as applied for, involves static illumination, but a variation of the Council's suggested third condition shall be imposed for the absence of doubt.

15. All other matters raised in the representations have been considered but none outweighs the considerations that led me to my conclusions.

G Powys Jones

INSPECTOR