



Appeal Decision

Site visit made on 16 January 2024

by N Thomas MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 29 January 2024

Appeal Ref: APP/H1705/C/23/3328024

5 Winchester Street, Whitchurch RG28 7AH

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended. The appeal is made by Mr Thirukkumaran Sellathurai against an enforcement notice issued by Basingstoke and Deane Borough Council.
- The notice was issued on 12 July 2023.
- The breach of planning control as alleged in the notice is without planning permission, the demolition of the existing shopfront and the installation of a new shopfront and roller shutter.
- The requirements of the notice are to:
 - (i) Permanently remove the unauthorised shopfront and roller shutter.
 - (ii) Install replacement white painted timber single glazed shopfront with a recessed timber single glazed door to the front elevation of the building of a form and finish that matches the shopfront as previously installed; and
 - (iii) Make good any damage to the masonry, brickwork, rendering of the building caused by complying with steps (i) and (ii) above and in doing so ensure that any new materials match adjacent work in terms of colour, texture and type of material.
- The period for compliance with the requirements is four months.
- The appeal is proceeding on the grounds set out in section 174(2)(a), (f), (g) of the Town and Country Planning Act 1990 as amended. Since an appeal has been brought on ground (a), an application for planning permission is deemed to have been made under section 177(5) of the Act.

Decision

1. It is directed that the enforcement notice is varied by deleting 'four' and replacing it with 'six' in the period for compliance with the requirements.
2. Subject to the variation, the appeal 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.

Preliminary Matters

3. Planning permission¹ was refused to demolish the existing shop front and install a new shop front and roller shutter. An appeal against the Council's decision under s78 of the 1990 Act was dismissed on 16 January 2024². The appeal decision letter explains that the appeal was determined on the basis of what had been constructed. I have no reason to doubt that the shop front and roller blind were those described in the allegation above.

¹ Ref 22/03303/RET

² Ref APP/H1705/Z/23/3319092

4. I note that the appellant has stated that they were informed that the internal roller shutter does not require consent. However, it appears to me that it is part of or attached to the shop front. I have therefore not dealt with this matter as a hidden appeal on ground (c).
5. Since the enforcement notice was served, a revised version of the National Planning Policy Framework (NPPF) was published in December 2023. The issues the most relevant to the appeal are unaffected by the revised NPPF.

The appeal on ground (a) and the deemed planning application

6. The ground of appeal is that planning permission should be granted for the development alleged in the enforcement notice. Having regard to the reasons for issuing the notice, the main issue is whether the development preserves or enhances the character or appearance of the Whitchurch Conservation Area (CA), and the effect of the development on the setting of nearby listed buildings.
7. Sections 66(1) and 72(1) of the Planning (Listed Buildings and Conservations Areas) Act 1990 require that special regard is given to the desirability of preserving a listed building or its setting and that special attention is paid to the desirability of preserving or enhancing the character or appearance of a conservation area. The NPPF in paragraph 205 sets out that when considering the impact of a development on the significance of a designated heritage asset, great weight should be given to the asset's conservation.
8. The appeal site lies within the historic core of Whitchurch, which is centred on the Town Square, identified by the Council³ as an Open Area of Townscape Significance. The area has a high concentration of historic buildings with many listed or identified as Notable Structures and Buildings of Local Interest. The Town Square contributes to the strong sense of place and identity of Whitchurch with a relatively tight urban grain. Timber framing is noted as part of the common palette of materials, with historic joinery including shop fronts being a defining feature. In close-knit areas the relationship of these features becomes a significant factor in the overall character and appearance of the CA. The use and overall effect of inappropriate replacement windows and doors on some historic properties is identified in the CAA as a detracting feature.
9. Amongst the buildings within the historic core, are The Bee Hive, a 15th Century Grade II listed building which derives considerable significance from its architectural and social historic interest, and The Town Hall, a 17th and late 18th century Grade II* listed building. The Town Hall derives significance from, amongst other things, its civic function and architectural interest. They are both prominently located and are identified as landmarks in the CAA. They are visible in views from the Town Square and their setting in the historic core of the CA contributes positively to their significance.
10. Prior to the development taking place, the appeal site made a positive contribution to the character and appearance of the CA, as it had a traditional shop front with a stallriser, painted timber window frames and a recessed central doorway. The traditional shop front also made a positive contribution to the building's significance as a non-designated heritage asset (NDHA).

³ Whitchurch Conservation Area Appraisal and Management Plan Supplementary Planning Document 2019 (CAA)

11. The replacement shop front has largely removed the stallriser and the recessed central doorway so that the shop front appears as flat expanse of glass with narrow metal frames. While it has retained the pilasters to the side of the fascia sign and a new retractable blind has been installed, most of the distinctive architectural details, traditional materials and form that had historic interest have been lost. The roller shutter is only visible from the street when the premises are closed. Nonetheless, when in place the roller shutter would appear as a modern intrusion that restricts views into the shop, as well as resulting in the loss of an active frontage.
12. The appellant states that the pre-existing shop front was in a poor state of repair and detracted from the character and appearance of the site and street scene. I have seen no evidence however that it would not have been possible to repair the existing shop front rather than replace it.
13. The development therefore detracts from the historic form of the building and has caused considerable harm to its significance as a NDHA. Given the importance of the Town Square to the historic core of the CA, the development harms the character and appearance of the CA as a whole and the setting of The Bee Hive and The Town Hall. The harm would be limited, given the small scale of the development, but would nonetheless harm the significance of these heritage assets. In each case, the harm would be less than substantial in terms of the NPPF but is nevertheless a matter of considerable weight and importance.
14. I note that some of the other shop frontages in the area appear to have modern replacement windows and fascia signs. Some of the shop fronts include internal roller shutters. However, all of the examples identified by the appellant have retained a stall riser. The stallriser at Tesco Express is quite shallow but it is not clear whether this is a modern insertion and in any event it is some distance away from the appeal site. Co-op Funeralcare has a recessed front door and timber window surrounds. Although the Kingsley shopfront has a large fascia sign, the timber window surrounds are evident. The Co-op supermarket has a modern entrance on the side elevation from Church Street with no stallriser. However, the main elevation onto Town Square has a stallriser and the large windows have timber frames. I do not therefore find that any of the examples given by the appellant indicate that the appeal development is acceptable.
15. The NPPF sets out that less than substantial harm to designated heritage assets must be weighed against any public benefits, and that a balanced judgement will be required in relation to development which affects NDHAs, having regard to the scale of any harm or loss and the significance of the heritage asset.
16. The appellant states that the shopfront has improved the vitality and viability of the existing commercial unit and has provided additional floor area. I appreciate that the removal of the recessed door in the shop front has increased the useable space within the shop. It would be reasonable to assume that this has improved its commercial viability. However, I have seen no evidence that there are no other means to support the viability of the shop in a manner which would be less harmful to the heritage assets.
17. I also appreciate that the internal roller shutter is needed for security but the appellant has suggested alternative types of shutter that would be more

visually permeable. I therefore give these benefits limited weight and they do not outweigh the harm I have identified.

18. Accordingly, the development fails to preserve or enhance the character or appearance of the CA and harms its significance. It also harms the setting and thereby the significance of the nearby listed buildings. It is therefore contrary to Policies EM10 and EM11 of the Basingstoke and Deane Local Plan Adopted 2016 and Policy GD1 of the Whitchurch Neighbourhood Plan made in July 2017, insofar as they seek to ensure that development is of high quality and conserves or enhances heritage assets. It also conflicts with the CAA, the Design and Sustainability Supplementary Planning Document 2018 and the Heritage Supplementary Planning Document 2019.
19. In relation to the appeal on ground (f), the appellant has suggested some lesser steps. These are changing the window frames from metal to timber but retaining the design and position of the shop front and retaining the roller shutter. I could allow the appeal on ground (a) for all or part of the development that is alleged in the notice. Changing the window frames would not overcome the planning harm that I have identified, as it would not reinstate the recessed doorway or the stallriser. As the roller shutter appears to be attached to the shop front I have seen no evidence that it would be feasible to retain this element without the existing shop front, and in any event I have found that it causes harm. Therefore, the suggested 'lesser' steps would not overcome the planning harm. The appeal on ground (a) therefore fails and I shall refuse the deemed planning application.

The appeal on ground (f)

20. The ground of appeal is that the steps required by the notice to be taken exceed what is necessary to remedy the breach of planning control or, as the case may be, to remedy any injury to amenity which has been caused by the breach.
21. As the notice requires the removal of the shopfront and roller shutting in their entirety, the purpose of the notice is to remedy the breach of planning control. It follows that the requirements of the notice are not excessive. I have already found that the lesser steps suggested by the appellant would not be acceptable in planning terms. The appeal on ground (f) therefore fails.

The appeal on ground (g)

22. The ground of appeal is that the period for compliance with the requirements of the notice is too short. The period for compliance is four months and the appellant requests that this be extended to six months. The reason is to allow sufficient time to find appropriately skilled contractors to replicate the pre-existing shop front, and to raise sufficient funds.
23. In view of the nature of the works that need to be undertaken to comply with the notice, it seems to me that six months would strike a reasonable balance between the interests of the appellant and the need to bring the breach of planning control to a timely resolution. To this extent the appeal on ground (g) succeeds and I shall vary the notice accordingly.

Conclusion

24. For the reasons given above, I conclude that the appeal should not succeed. I shall uphold the enforcement notice with a variation and refuse to grant planning permission on the application deemed to have been made under section 177(5) of the 1990 Act as amended.

N Thomas

INSPECTOR