



Appeal Decisions

Site visit made on 13 February 2024

by A Tucker BA (Hons) IHBC

an Inspector appointed by the Secretary of State

Decision date: 18 March 2024

Appeal A Ref: APP/F0114/Y/23/3326868

Theatre Royal, Sawclose, BATH BA1 1ET

- The appeal is made under section 20 of the Planning (Listed Buildings and Conservation Areas) Act 1990 (as amended) against a refusal to grant listed building consent.
 - The appeal is made by Mr E Hibbert of Theatre Royal against the decision of Bath and North East Somerset Council.
 - The application Ref is 22/05048/LBA.
 - The works proposed are installation of digital external advertisement display modules.
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Appeal B Ref: APP/F0114/H/23/3326867

Theatre Royal, Sawclose, BATH BA1 1ET

- The appeal is made under Regulation 17 of the Town and Country Planning (Control of Advertisements) (England) Regulations 2007 (as amended) against a refusal to grant express consent.
 - The appeal is made by Mr E Hibbert of Theatre Royal against the decision of Bath and North East Somerset Council.
 - The application Ref is 22/05049/AR.
 - The advertisement proposed is 5 x digital display modules in total: 2 either side of the entrance to The Egg, 2 either side of the main entrance to the Theatre Royal, 1 on the side elevation (onto St Johns Place) in a landscape format.
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Decision – Appeal A

1. The appeal is dismissed insofar as it relates to the two digital displays either side of the entrance to The Egg.
2. The appeal is allowed, and listed building consent is granted for the two digital displays either side of the main entrance to the Theatre Royal and one on the side elevation (onto St Johns Place) at Theatre Royal, Sawclose, Bath BA1 1ET, in accordance with the terms of the application, Ref 22/05048/LBA, and the plans submitted with it, subject to the following conditions:
 - 1) The works hereby approved shall begin not later than 3 years from the date of this decision.
 - 2) Following the removal of the existing adverts and prior to the installation of the adverts hereby consented, any damage caused from fixings and cables by the existing adverts shall be made good. Details of the specification for the mortar mix and a sample area of pointing demonstrating colour, texture, jointing and finish shall be provided in situ for the inspection and approval in writing by the Local Planning Authority and retained for reference until the work has been completed. Once approved the work shall be carried out in accordance with the approved details.

- 3) The adverts shall not be fixed to the building until full details comprising the level of illuminance, method of control and period of lighting during a 24-hour period have been submitted to and approved in writing by the Local Planning Authority. Thereafter the installation shall be carried out in accordance with the approved details.
- 4) The adverts shall not be fixed to the building until full details of the proposed gold finish for the frames have been submitted to and agreed in writing by the Local Planning Authority.

Decision – Appeal B

3. The appeal is dismissed insofar as it relates to the two digital displays either side of the entrance to The Egg.
4. The appeal is allowed, and express consent is granted for the two digital displays either side of the main entrance to the Theatre Royal and one on the side elevation (onto St Johns Place), as applied for, in accordance with the terms of the application, Ref 22/05049/AR. The consent is for five years from the date of this decision and is subject to the standard five conditions set out in the Regulations and the following additional conditions:
 - 1) The adverts shall not be fixed to the building until full details comprising the level of illuminance, method of control and period of lighting during a 24-hour period have been submitted to and approved in writing by the Local Planning Authority. Thereafter the installation shall be carried out in accordance with the approved details.
 - 2) The adverts shall not be fixed to the building until full details of the proposed gold finish for the frames have been submitted to and agreed in writing by the Local Planning Authority.

Preliminary Matters

5. The appeals relate to the same proposal under different legislation. I have dealt with both appeals together in my reasoning.
6. An updated version of the National Planning Policy Framework (Framework) was published on 19 December 2023. Its content is largely unchanged in relation to the main issue of this appeal, so I have not sought the views of the main parties on this matter.
7. With regard to Appeal B, The Town and Country Planning (Control of Advertisements) (England) Regulations 2007 and the Framework both make it clear that advertisements should be subject to control only in the interests of amenity and public safety, taking into account cumulative impacts. Regard does not need to be had to the development plan. I have taken relevant policies into account as a material consideration; however, they have not, by themselves, been determinative for this appeal.

Main Issues

8. The effect of the proposal upon the amenity of the area and the significance of the grade II* listed building known as Theatre Royal and Former Garrick's Head

Public House¹, the grade II listed building known as St Paul's Church Hall², whether the proposal would preserve or enhance the character or appearance of the Bath Conservation Area (BCA), and its effect on the Bath World Heritage Site (BWHS).

Reasons

9. Section 16(2) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (LBCA) requires the decision maker to have 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. Additionally, Section 72 of the LBCA requires special attention to be paid to the desirability of preserving or enhancing the character or appearance of a conservation area.
10. The Theatre Royal is a prominently positioned building of 1805 that incorporated an earlier house. Its entrance onto Sawclose is part of a later 19th century remodelling of the front elevation of the earlier house of 1720. The house presents six fine classical bays to Sawclose from its upper floors, with rich stone ornamentation that includes a balustrade, heavy cornices, quoins, and window surrounds; all serving to set it apart from the plainer facades to either side. Below this at street level sits a projecting entrance to the theatre that was part of the 1863 remodelling with three decorated arched openings underneath a balustrade. These rich architectural details, as well as the significant phases of the building's development are important contributors to its special interest.
11. St Paul's Church Hall is a separate building to the southwest, though attached to the Theatre and now used as The Egg Theatre. It is separately listed at grade II. It dates from the late 19th century and is built in a baroque revival style with formal elevations facing out over the two streets, comprising symmetrical layouts of sash windows with decorative stone surrounds including elaborate pediments. The building's strong sense of order as well as its rich architectural detailing are characteristics that contribute to its special interest.
12. This area is the heart of 18th century Bath with its carefully executed terraces, squares and individual buildings all constructed with great precision and architectural richness in unifying Bath stone. The Theatre and Church Hall are buildings that illustrate this well, and thus contribute to the significance of the BCA.
13. The Outstanding Universal Value (OUV) of the BWHS includes the Georgian expansion of the city with its individual 18th and 19th century buildings and their collective scale and style demonstrative of 18th century town planning. For the reasons already given, the appeal buildings contribute to the OUV of the BWHS.
14. The existing signage fronting the main entrance of the Theatre Royal has a rather dated appearance as a result of its mode of internal illumination and the condition of its frames. This detracts from the architectural quality of the building. Subject to a condition to control the level of illumination, digital signage would be appropriate for a building that would ordinarily be well lit. In this respect I concur with consultee comments that the sensitive use of illumination is in keeping with the historic typology of theatres and gives an opportunity for the building's appearance to be enhanced through the limited

¹ List Entry Number: 1394864

² List Entry Number: 1394865

use of active signage such as that proposed. The signs would be modest and would be set down at street level in positions that would respect the building's design. In this respect they would relate to the bold appearance of the projecting entrance with its glazed doors, which is entirely related to the building's use as a theatre and would not harm the appearance of the older 1720 house.

15. The finial finish of the frames would need to be carefully detailed to ensure that it is appropriate for this prominent and sensitive context; a condition would secure the submission of additional details in this respect. Additionally, to ensure that the proposal would not harm the fabric of the building, further details would need to be secured by condition related to the method of fixing and cabling. On this basis I can be satisfied that this element of the proposal would not harm the special interest of the building. It follows that it would preserve the character and appearance of the BCA, and that it would not harm the OUV of the BWHS or the amenity of the area.
16. There is a reference before me to a draft Conservation Area Appraisal that refers to poor quality inappropriate and intrusive signage. This document has not been submitted as part of the appeal; however, I am of the view that the signage proposed for the Theatre Royal would be of an appropriate quality and appropriate for the context.
17. The Council's guidance document³ states that internally illuminated signs will not be allowed unless there are extremely special circumstances. The existing signage is internally illuminated. The guidance makes no mention of digital signage. In any case, for the reasons given I find that the proposal would not be harmful.
18. The two signs proposed for The Egg Theatre would replace two existing signs but would leave two existing signs alongside. As a result, the building would be left with a mismatched arrangement of signs. Not only would the two new signs be digitally illuminated, but they would also be of a different proportion and scale to the existing signs. This mismatched arrangement would detract from the strong formality and symmetry of one of the building's principal facades and would thus cause considerable harm to its special interest.
19. It follows that this element of the proposal would fail to preserve the character and appearance of the BCA and would harm the OUV of the BWHS; although the level of harm would be very modest given the extent of the proposal and the scale of these designations.
20. In terms of the Framework, the harm to The Egg Theatre would be less than substantial. Paragraph 208 of the Framework establishes that any harm should be weighed against the public benefits of the proposal.
21. The proposed signage would be better for the business as staff would be able to make changes more quickly and efficiently. This would constitute an economic benefit that would be of a public nature, because of the wider public benefits associated with the Theatre and its charitable aims. However, I give this matter little weight in the context of the proposal before me, as no explanation has been given as to why only two signs would be replaced leaving

³ Bath Conservation Area Commercial signage and tables and chairs on the highway Design and Conservation Guidance July 2016

a mismatched appearance. The public benefits would not therefore be sufficient to outweigh the identified harms.

22. In summary, the proposed signs for The Egg Theatre would fail to meet the requirements of the LBCA as it would harm the special interest of the listed building and fail to preserve the character or appearance of the BCA. It would also harm the amenity of the area and the OUV of the BWHS. It would be contrary to Policies HE1 and B4 of the Core Strategy and Placemaking Plan incorporating the Local Plan Partial Update 2023. Together these Policies establish a strong presumption against harm to the OUV of the BWHS and seek to sustain or enhance the historic environment.

Other Matters

23. The Council has raised no concern regarding public safety. Based on the information before me and my own observations on site I find no reason to disagree.

Conditions

24. I have had regard to the conditions suggested by the Council. I have considered these against the tests in the Framework and the advice in the Planning Practice Guidance. I have imposed conditions to secure additional details of the fixing of the proposed units, to avoid harm to the fabric of the building. I have also imposed conditions to secure further details of the proposed finish and the level of illuminance, method of control and period of lighting to ensure that the installation does not harm the heritage assets or the amenity of the area.

Conclusion

25. For the reasons above, the appeals should be allowed insofar as they relate to The Theatre Royal, but dismissed insofar as they relate to The Egg Theatre. As the two elements of the proposal are physically and functionally severable I consider split decisions to be the logical outcome.

A Tucker

INSPECTOR