



Appeal Decisions

Site visit made on 8 October 2024

by V Bond LLB (Hons) Solicitor (Non-Practising)

an Inspector appointed by the Secretary of State

Decision date: 14TH NOVEMBER 2024

Appeal A Ref: APP/P0240/C/22/3305758

69 High Street, BIGGLESWADE, SG18 0JH

- The appeal is made under section 174 of the Town and Country Planning Act 1990 (as amended). The appeal is made by Biggleswade Liberal Club and Association against an enforcement notice issued by Central Bedfordshire Council.
 - The notice was issued on 1 August 2022.
 - The breach of planning control as alleged in the notice is Without planning permission, the installation of roller security shutters on the ground floor shop front.
 - The requirements of the notice are to: Remove the unauthorised roller security shutters from the ground floor shop front along with all fixings and housings for the shutters.
 - The period for compliance with the requirement is: Two calendar 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.
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Appeal B Ref: APP/P0240/C/22/3305823

65 High Street, BIGGLESWADE, SG18 0JH

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 - 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.
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Appeal A Decision

1. It is directed that the enforcement notice is varied by the deletion of 'Two calendar months' as the compliance period and substitution of 'Four months'.
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.

Appeal B Decision

3. It is directed that the enforcement notice is varied by the deletion of 'Two calendar months' as the compliance period and substitution of 'Four months'.

4. 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

5. The two appeals referenced in my banner heading above are in respect of essentially identical developments on sites forming part of the same building. In view of the extensive overlap between the two, I shall deal with these together in my decision, distinguishing between the two sites as appropriate. Since the appellant in both appeals is the same, I refer to 'appellant' in the singular.
6. A revised version of the National Planning Policy Framework ('the Framework') was published in December 2023. Having considered the revisions, together with issues relevant to determining these appeals, there are no material changes in the Framework relevant to the substantive matters in these appeals. Therefore, it has not been necessary in this instance to invite submissions from the parties on the revised Framework.

The Notices

7. The appellant outlines what they consider to be imprecision in the notices by reason of policy and guidance referred to not being cross referenced to the different aspects of alleged harm recounted in the Council's reasons for issuing the notice and due to whole chapters of the National Planning Policy Framework being referenced. In my view, whilst there could have been more precision in these respects, plainly these have been sufficiently precise to enable the appellant to make their case in both appeals and do not represent any fundamental imprecision in the notice.

Appeals A and B: The appeal on ground (a) and the deemed planning application (DPA)

Main Issue

8. The main issue in respect of Appeals A and B is the effect on the character and appearance of the Biggleswade Conservation Area ('CA').

Reasons

9. Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 ('the Act') requires me to pay special attention to the desirability of preserving or enhancing the character or appearance of the conservation area.
10. Much of the CA in this case is centred around the town centre with retail, pub and restaurant uses creating a bustling character. The appearance of the CA is notable for its varied historic buildings, many of which display traditional materials and intricate architectural detailing, such as that on the front elevation of the George's Hall building which both appeal sites form part of.
11. The roller security shutters are of an obviously utilitarian and industrial design and particularly when closed, they significantly detract from the special architectural and historic appearance of the CA. When the shutters are closed (as one was at the time of my site visit), this presents a very noticeable 'dead frontage' at odds with the predominantly bustling character of the CA. Whilst footfall is likely greatest during the day, a material level of harm results from a

dead frontage at night-time when there would be people visiting restaurants and pubs.

12. Painting the roller shutters would do very little to distract from their utilitarian design and materials, and so would not overcome the harm identified. Leaving only the shutter housing in place would remove harm to the character of the CA from the presence of a dead frontage. However, the box-like industrial appearance of the housing would nonetheless result in modest harm to the appearance of the CA as a modern feature that does not sit well within the historic context.
13. The appellant draws my attention to other examples of similar roller shutters or internal shutters of varying designs within the CA. I do not have full details of the planning circumstances leading to each of these developments so as to enable a proper comparison with the appeal shutters. In any event, roller security shutters are not so prevalent as to have formed a characteristic part of the CA, and the harm resulting from other roller shutters does not therefore justify the appeal developments. Whilst the CA may well have changed to some degree since the date of the Council's Conservation Area Appraisal (CAA), this does not render this irrelevant and indeed much of the character features as outlined in the CAA were notable during my site visit.
14. The appellant cites an example of the Council permitting roller shutters in Southill Conservation Area on the basis that these were to be painted the same colour as associated cladding. Whilst I do not have full information as to the planning circumstances leading to this permission, this demonstrates why individual developments are considered on their merits. I can, for example, envisage how a decision might reasonably be reached that roller shutters on a farm building, even within a conservation area, could be considered acceptable on the basis for example, of those farm buildings already having a fairly utilitarian appearance. This can be contrasted with the effect of the metal shutters on the George's Hall building which features decorative architectural detailing.
15. Paragraph 205 of the Framework advises that when considering the impact of development on the significance of a designated heritage asset, great weight should be given to the asset's conservation. Paragraph 206 indicates that such significance can be harmed or lost through the alteration/destruction of those assets or from development within their setting and that this should have a clear and convincing justification. In view of the scale of the appeal developments, I find the harm to be less than substantial but nonetheless of considerable importance and weight.
16. Paragraph 208 of the Framework thus states that this harm should be weighed against the public benefits of the proposal. The appellant cites benefits arising from providing security which the appellant considers 'vital in this town centre location', and I note in this regard the position of the appeal sites directly below a late night venue along with instances of property damage and burglary. Certainly, there is a private benefit from providing security for the appeal premises but the appellant has not explained how this translates into a public benefit. In any event though, even if a public benefit, there is no substantive evidence to indicate that the same or similar security benefits could not be achieved with less or no harm to the CA. This consideration therefore would not outweigh the harm caused to the heritage asset.

17. Thus, I conclude that the appeal developments fail to preserve or enhance the character or appearance of the Conservation Area. They fail to satisfy the requirements of the Act and Chapters 12 and 16 of the Framework. Conflict also arises as regards Policies HQ1 and HE3 of the Central Bedfordshire Local Plan 2015-2035 (July 2021) which seek to ensure that new development is of the highest possible quality and responds to its context and that the special character of heritage assets is conserved. There is a failure to accord also with guidance in paragraph 9.10.12 of the Central Bedfordshire Design Guide (September 2014) which advises that the design of blinds on historic buildings should relate to the architectural character of the building or of the area.

Appeals A and B: Conclusion on ground (a) and the DPA

18. For the reasons stated, the appeal developments conflict with the development plan read as a whole. No material considerations raised indicate that the appeals should be decided other than in accordance with the plan. The ground (a) appeals thus fails and planning permission will be refused in respect of the DPAs.

Appeals A and B: The appeal on ground (f)

19. This ground of appeal is that the requirements of the notice exceed what is necessary.

20. S.173 of the Town and Country Planning Act 1990 indicates that there are two purposes which the requirements of an enforcement notice can seek to achieve. The first is to remedy the breach of planning control which has occurred; the second is to remedy an injury to amenity which has been caused by the breach. The fact that the notices in this case require removal of the roller shutters and housing suggests that their purpose is to remedy the breach.

21. Under this ground, the appellant submits that the 'the LPA contend that the alleged harm would only result from the roller security shutters when closed' and so on this basis 'the requirement to remove the roller security shutters is excessive'.

22. I acknowledge that the Council's concern as to a 'dead frontage' only stems from the shutters being closed. However, the Council plainly also references the materials and design of the shutters not being sympathetic to local surroundings. Bearing in mind that the requirements stipulate removal of all fixings and housings, I interpret this as meaning that the visible housing is also considered harmful. I found in my ground (a) assessment that the housing also detracts from the character of the CA, albeit to a lesser degree than the shutters. Varying the requirement to allow the shutters to remain in place but in a rolled-up position would also lead to difficulties with enforcement.

23. The ground (f) appeal fails for the reasons stated.

Appeals A and B: The appeal on ground (g)

24. The appeal on ground (g) is that the period for compliance with the notice falls short of what is reasonable.

25. The notice stipulates two calendar months for compliance. The appellant requests twelve months on the basis that this would allow a more 'sustainable

method' for removal since the security shutters could be sold or reused elsewhere. The additional time for compliance is also requested to enable the appellant to engage with the Council to seek an alternative form of security.

26. In the absence of any detailed evidence to the contrary, in my view, a two month period would be adequate to enable the appellant to both make arrangements for the shutters to be removed (which I would expect to be a relatively simple job), as well as to seek to sell/re-use these elsewhere.
27. That said, I can understand the appellant's concern to explore alternative security measures with the Council. This does not warrant a twelve month compliance period even taking into account time also required to remove the shutters. However, in my view, a four month compliance period would strike the right balance between providing additional time for the appellant to explore this option and bringing ongoing harm to the CA to an end.
28. The ground (g) appeal succeeds to this limited extent.

Appeal A Overall Conclusion

29. 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).

Appeal B Overall Conclusion

30. 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).

V Bond

INSPECTOR

Appendix 1
List of those who have appealed

Reference	Case Reference	Appellant
Appeal A	APP/P0240/C/22/3305758	Biggleswade Liberal Club and Association
Appeal B	APP/P0240/C/22/3305823	Biggleswade Liberal Club and Association