



Appeal Decision

Site visit made on 19 August 2025

by **C McDonagh BA (Hons) MA MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 28 August 2025.

Appeal Ref: APP/U3935/W/25/3364140

28 High Street, Old Town, Swindon SN1 3EP

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant consent, agreement or approval to details required by a condition of a planning permission.
 - The appeal is made by Charlotte Cox against the decision of Swindon Borough Council.
 - The application Ref S/COND/24/1384 sought approval of details pursuant to condition No 2 of planning permission ref S/24/0964/AMMY, which was granted on 28 October 2024.
 - The development is described as 'discharge of Condition (2) Window detailing from previous application S/24/0964 - Erection of a single storey rear extension, rear store, enclosure of existing rear store, changes to the shopfront fenestration and retention of the plinth. (Retrospective).'
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. A decision notice was not issued, although the Council's officer report clarifies the reasons as to why it considered the details submitted were not acceptable to discharge condition 2, which was attached to the grant of planning permission under S/24/0964.
3. The appellant has drawn my attention to the 6 tests of conditions given in the National Planning Policy Framework (the Framework) and Planning Practice Guidance (PPG), advising that in their judgement that the condition subject to appeal was not precise, enforceable or reasonable and should not therefore have been attached in that form to the grant of planning permission. However, this is not an appeal against the condition itself, whether removing or varying it. I can only determine whether the details submitted, as refused by the Council, are acceptable or otherwise, thereby discharging the condition in question or not. I have determined the appeal accordingly.

Main Issue

4. The main issue is the effect of the proposal on the host building and the character and appearance of the Old Town Conservation Area (CA).

Reasons

5. The appeal property is a two-and-a-half storey double fronted building with fenestration arranged either side of the central door and dormer windows in the roof space. It fronts High Street and is located within the Old Town area of Swindon.

Significance

6. Due to its location in the CA, I have had regard to section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the Act) which states that special attention shall be paid to the desirability of preserving or enhancing the character or appearance of that area.
7. The Appraisal¹ advises that the character and appearance of the CA is largely defined by its historic street patterns. This includes built form around High Street, Newport Street, Devises Road and Wood Street and like many medieval towns, the former market square area would have been a focal point for trade and community meetings. There is a large variety of built form in the CA which is telling of its age and evolution of the town over the years. Generally speaking, the quality of its architecture, detailing of buildings and its spaces all contribute considerably to the significance of the CA, while traditional materials are also prevalent, particularly those sourced from local areas.
8. The CA is also divided into smaller sub areas, with the appeal site located within the High Street and directly opposite the former market square and old town hall building. It is noted that the west side, within which the appeal site sits, has an almost continuous historic frontage with some traditional shopfronts with timber windows, which are an important element of the historic character of this traditional High Street. It is also noted in the Appraisal that the use of unsuitable materials, including aluminium or plastic windows replacing wooden sash windows, has detracted from some of the buildings in the conservation area. While some properties may have been altered since its adoption, I do not consider the age of the Appraisal should lessen its weight as a material consideration.
9. The Council advises that the previous windows were timber framed casement with through glazing bars and a variety in the number of panes across the floors of the building. The proposed windows and the door are aluminium framed, with applied glazing bars to the windows while the door has no panes and presents as one piece of glass.

Effects of the Proposal/Development

10. While the host building may not be listed or identified as a building of interest in the Appraisal, its age, use of traditional materials and simple form make a positive contribution to the character and appearance, and thereby significance, of the CA. The proposed frames of the windows and door would be formed of a modern material which lacks the texture, depth, finesse and general authenticity of timber, which would be a much more suitable material for the front elevation of the host building given its prominent position in the High Street.
11. Moreover, while the glazing bars may resemble the appearance of previous multi-paned windows, they would be thicker and applied to the surface of the glass as opposed to the process of traditional integral glazing bars. In comparison to the construction and joinery used in the glazing bars of traditional timber sash windows, they would lack authenticity in functional and visual terms. This would further emphasise disparity with the front elevation of the building. Hence, the

¹ Swindon Old Town Conservation Area Appraisal and Management Plan (adopted April 2008)

replacement windows would be poorly suited to the traditional materials and simple form of the host building.

12. The door is also formed of an aluminium frame but includes one piece of glass, resulting in a featureless modern entrance which would appear even more incongruous in the context of the host building set against the appearance, albeit inauthentically formed, of the windows. Overall, the 'off-the-shelf', manufactured appearance and cruder profile of the windows and door would be clearly evident, detracting from the overall quality of the frontage of the host building and to the character and appearance of the CA.
13. An image of the building from the last century seems to show that the ground floor windows at that time were not multi-paned. However, it does appear that the first-floor windows were, albeit the image is not completely clear. While this may show some variety in the window styles of the building over the years, this does not make the proposal acceptable. The windows in this image may have detracted from the character and appearance of the building at that time, but from my observations so would the proposed. Moreover, the Act at section 72(1) highlights the desirability of preserving or enhancing the character or appearance of the CA.
14. I understand that there is a variety of window materials and styles adorning buildings in the CA. I have had regard to these as presented by the appellant and observed some of these on my site visit. A variety is not surprising, but the presence of ill-suited materials and styles does not justify allowing further degradation of the character of the CA to occur. If anything, it places an even greater emphasis on preserving what remains of historic windows and doors and seeking to enhance these features as per the Act. As such, I am not convinced this makes the proposal before me acceptable.
15. I am directed to an application² at Appsbroker House in Swindon. That proposal would have had its own, site-specific circumstances during its consideration and while the conservation officer may have had no objections to the design of windows, that is not justification for allowing what I consider to be harmful development in this case.
16. To conclude, the details submitted to discharge the condition are not acceptable and the window details would be harmful to the character and appearance of the host building and CA, including the significance of the latter as a designated heritage asset. This would be contrary to policies DE1 and EN10 of the Swindon Borough Local Plan 2026 (adopted March 2015). These seek to ensure, among other things, that development within or which would affect the setting of the Borough's Conservation Areas will conserve those elements which contribute to their special character or appearance. The proposal would also conflict with paragraph 202 of the Framework which advises that heritage assets are an irreplaceable resource and should be conserved in a manner appropriate to their significance, so that they can be enjoyed for their contribution to the quality of life of existing and future generations.

Heritage Balance

17. I have identified harm to the character or appearance of the CA and thereby its significance as a designated heritage asset. I agree that the harm would be less

² Ref: S/24/1144

than substantial in the parlance of paragraph 215 of the Framework. It may well be at the lower end of this scale, but as per paragraph 212 great weight should be given to the asset's conservation. As such, the harm is worthy of great weight against the proposal.

18. Given the nature of the use of the building as a nightclub, I understand that damage may occur more frequently. Timber windows may also require more maintenance than aluminium. However, that is a private matter for the appellant rather than anything I can factor into the heritage balance as a public benefit.
19. I do not doubt that the nightclub contributes to the nighttime economy of Swindon, while it also offers employment opportunities. However, my assessment of the appeal relates to the refusal to discharge condition 2. Even if I were to allow the appeal and agree to the details, this would not create the jobs or financial benefits espoused. Moreover, paragraph 215 of the Framework advises that the benefit relates to securing the optimum viable use, not simply a viable use. There is nothing before me to substantiate the claim that the nightclub is the optimum viable use of the building or that it may cease to operate were the condition not discharged.
20. Based on the foregoing, the public benefits of the proposal do not outweigh the harm, for which I must attach great weight to the conservation of heritage assets. The proposal thereby conflicts with paragraph 215 of the Framework.

Other Matters

21. The appellant has proposed attaching a condition to secure further details of the windows in the event that the proposal was unacceptable. However, it is unclear how the condition subject to appeal can be discharged if the details themselves are unacceptable and this would in effect defer the decision pending the agreement of further details. This is not an appeal submitted under section 73 of the Town and Country Planning Act 1990 to develop land without compliance with conditions previously attached.

Conclusion

22. The proposal would result in harm to the character and appearance of the host building and the CA. As a result, the proposal would fail to preserve or enhance the CA and conflict with the Development Plan when read as a whole. It would also conflict with the Framework, as the public benefits of the scheme are not sufficient to outweigh the harm. Overall, I conclude that there are no other considerations of sufficient weight which would outweigh the harm. As such, the appeal is dismissed.

C McDonagh

INSPECTOR