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# Appeal Decision

Site visit made on 27 September 2016

**by Anthony J Wharton BArch RIBA RIAS MRTPI**

**an Inspector appointed by the Secretary of State for Communities and Local Government**

**Decision date: 30 September 2016**

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**Appeal Ref: APP/B3410/F/15/3139268**

**Unit 1, 19 High Street, Tutbury, Burton-on-Trent, Staffordshire DE13 9LS**

- The appeal is made under section 39 of the Planning (Listed Buildings and Conservation Areas) Act 1990 as amended by the Planning and Compensation Act 1991.
  - The appeal is made by Drinks Direct against a listed building enforcement notice issued by East Staffordshire Borough Council.
  - The enforcement notice was issued on 2 November 2015.
  - The contravention of listed building control alleged in the notice is: the erection of a fascia sign and 2 vinyl graphic signs.
  - The requirements of the notice are:
    - (1) Remove the 'Drinks Direct' from the front of the building.
    - (2) Make good and repair any damage caused by the installation, or removal of the 'Drinks Direct' signage to the satisfaction of the Council.
    - (3) Remove the 2 vinyl graphic signs from the building, adjacent to Lower High Street.
    - (4) Make good and repair any damage caused by the installation, or removal, of the 2 vinyl graphic signs to the satisfaction of the Council.
  - The period for compliance with the requirements is 21 days.
  - The appeal is made on ground (e) only as set out in section 39(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 as amended.
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## Decision

1. The appeal is dismissed and the listed building enforcement notice is upheld. See formal decision below.

## Matters of clarification and background information

2. The Grade II listed appeal building is located in the centre of Tutbury, within the Tutbury Conservation Area (TCA) and close to other buildings which are the subject of an Article 4 Direction. This clearly aims to protect the historic and architectural features of the relevant buildings and the conservation area. Unit 1 is to the north of High Street at the junction with Lower High Street and Cornmill Lane. The late C18 building (with alterations) is still recognisable from its 1984 list description, with its brick façade, slated roof and brick stack. It is two storeys in height with sash windows, plain lintels and moulded stucco eaves. At the time of listing it was described as having modern shop fronts.

3. There are various previous applications relating to the property but the most relevant is listed building application P/2015/00766. This followed enforcement investigations into the unauthorised installation of the illuminated fascia sign and the two graphic vinyl signs which are the subject of this appeal. Listed building consent (LBC) was refused for the works, as well as for three 'swan neck lights', in August 2015. An informative added to the refusal referred to formal enforcement action being taken if the signs were not removed. No remedial action was taken by the appellant and the listed building enforcement notice (LBEN) notice was issued

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on 2 November 2015. The '*swan neck lights*' are not included in the allegation as set out in the LBEN.

4. Relevant policies are SP25, DP5 and DP6 of the East Staffordshire Local Plan 2012 -2031 (ESLP). Policy SP25 seeks to protect conserve and enhance heritage assets and their settings; policy DP5 aims to protect the character of listed buildings and conservation areas and policy DP6 indicates how shopfronts and advertisements should relate to their host property in terms of appropriate materials, finishes and illumination.

5. The National Planning Policy Framework (NPPF) and Planning Practice Guidance (PPG) are also major material considerations in this case and I have had regard to the relevant policies and guidance. These include those set out in the NPPF at section 7 (Requiring good design) and section 12 (Conserving and enhancing the historic environment). The above ESLP policies are up to date and accord with those in the NPPF. Because the building is listed and lies within the Tutbury Conservation Area (TCA) I have had special regard and paid special attention to the requirements of sections 16(2) and 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 (PLBCAA).

### **The appeal on ground (e)**

6. The main issues are the effects of the signs on the integrity and character of the listed building; on its setting; on its architectural and historic features and on the character and appearance of the TCA.

7. In support of the signage the recent building history is referred to and it is stated that a new timber shopfront was installed. It is confirmed that the lettering to the '*Drinks Direct*' sign is not internally illuminated and is considered to be essential in that it provides a modern vibrant indication (within the street scene) of the location and purpose of the premises. It is considered that the sign can attract passing motorists and that a low-key painted sign would not have the same effect. It is also stressed that the fascia is a recent addition and contended that the listed building has not been harmed by the signage.

8. It is indicated that the vinyl signs are glued to the internal side of the glazed windows and that the glass panes are also a recent addition to the building. Because they are temporary in nature and can be peeled off without harming the building they are considered to be acceptable and are stated to be as necessary to promote the building as is the fascia signage. It is further contended that the signs/decals are obscure and provide privacy as well as a degree of security to the interior of the unit which stocks high value goods. For these reasons it is not considered that the signs harm the building as they are both easily removable.

9. Having viewed the signs from both near and distant viewpoints I share the Council's concerns about their visual impact on both the listed building and the character and appearance of the TCA. I find that the fascia sign and lettering is obtrusive and visually harmful. Whilst appreciating the need to advertise the premises, I consider that the sizing of the lettering detracts markedly from the scale of the front elevation to the building. The lettering clashes with the form and sizing of the sash and case window at first floor level and completely overwhelms the fascia and brickwork at first floor level. Because of the location of the shop in a corner position at the bottom of the High Street, it is particularly noticeable when walking or driving down the street

10. I consider that it detracts from the integrity and character of the listed building and is harmful to the remaining architectural and historic features of the

frontage, including the window, its cill and the colour of the brickwork. Having seen the surrounding shops and other historic buildings I also consider that this over-sized lettering is detrimental to the setting of the listed building and others in the immediate locality. It follows, in my view, that the fascia sign and lettering neither preserves nor enhances the character or appearance of the TCA.

11. Turning to the vinyl signs which completely cover the two shop windows I find that these are equally, if not more, harmful to the listed building and the character and appearance of the TCA. These signs are perceived as huge advertisement posters fixed to this 18C façade. Again, whilst acknowledging that they clearly explain what is for sale, I find them to be most harmful to the appearance of this front elevation. They dominate the streetscene, detracting markedly from the listed building as well as from this part of the TCA

12. Most of the other shops in this part of the TCA have glazed frontages and signage in keeping with the nature of what is being sold. These vinyl signs completely dominate the ground floor elevation, resulting in the equivalent (almost) of an inappropriate and visually dominating 48 sheet advertisement hoarding. I acknowledge that many retail outlets in our towns and cities have adopted this most unfortunate and visually dominating form of window advertising and clearly each example needs to be assessed on its merits.

13. That is how I have dealt with this case but there is no doubt in my mind that this crude and inappropriate advertising has had a 'deadening' visual effect on what should be seen as a vibrant and attractive shopping frontage. The Council would not have granted consent for advertisements of this size within the streetscene and indeed refused consent for both of the types of signage. There can be no justification in my view, therefore, to grant listed building consent at this appeal stage. The unauthorised works are contrary to policies SP25, DP5 and DP6 of the East Staffordshire Local Plan as well as to design and conservation policies of the NPPF. The appeal, therefore, fails on ground (e).

### **Other Matters**

14. In reaching my conclusion I have taken into account all other matters raised by the Council and by and on behalf of the appellant. These include the full planning history as set out; the full facts and grounds submitted and the photographic submissions. However, none of these carries sufficient weight to alter my conclusions and nor is any other factor of such significance so as to change my decision.

### **Formal Decision**

15. The appeal is dismissed and the listed building enforcement notice is upheld. Listed building consent is refused for the works carried out in contravention of section 9 of The Planning (Listed Buildings and Conservation Areas) Act 1990 as amended.

*Anthony J Wharton*

Inspector