



Appeal Decisions

Site visit made on 1 July 2013

by B Hellier BA(Hons) MRTPI

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

Decision date: 8 July 2013

Appeal A

Ref: APP/G0908/A/12/2188192

Kirkgate Centre, Kirkgate, Cockermouth, CA13 9PJ

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Kirkgate Arts against the decision of Allerdale Borough Council.
 - The application Ref 2/2012/0628, dated 15 August 2012, was refused by notice dated 10 October 2012.
 - The development proposed is the refurbishment of existing centre by part demolition of west and east gables and addition of two storey extensions for cafe, bar, reception, toilets, kitchen, offices and escape stairs.
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Appeal B

Ref: APP/G0908/A/12/2188363

Kirkgate Centre, Kirkgate, Cockermouth, CA13 9PJ

- The appeal is made under sections 20 and 74 of the Planning (Listed Buildings and Conservation Areas) Act 1990 against a refusal to grant conservation area consent.
 - The appeal is made by Kirkgate Arts against the decision of Allerdale Borough Council.
 - The application Ref 2/2012/0629, dated 15 August 2012, was refused by notice dated 10 October 2012.
 - The demolition proposed is part demolition of west and east gables.
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Decision

1. Appeal A is allowed and planning permission is granted for the refurbishment of existing centre by part demolition of west and east gables and addition of two storey extensions for cafe, bar, reception, toilets, kitchen, offices and escape stairs at the Kirkgate Centre, Kirkgate, Cockermouth, CA13 9PJ in accordance with the terms of the application, Ref 2/2012/0628, dated 15 August 2012, subject to the conditions set out in the accompanying Schedule.
2. Appeal B is allowed and conservation area consent granted for part demolition of west and east gables at Kirkgate Centre, Kirkgate, Cockermouth, CA13 9PJ in accordance with the terms of the application Ref 2/2012/0629, dated 15 August 2012 subject to the conditions set out in the accompanying Schedule.

Procedural matters

3. After the appeal was submitted the North West of England Regional Spatial Strategy to 2021 and the saved policies of the Cumbria and Lake District Joint Structure Plan 2001-2016 were revoked. I have therefore not had regard to any of the policies contained in these plans.

4. The application and appeal were made in the name of Ms K Parry. Since this was on behalf of Kirkgate Arts, the owner and operator of the Kirkgate Centre, I have treated Kirkgate Arts as the appellants in this case.
5. An application for costs was made by the appellants against the Council. This application is the subject of a separate Decision.

Main issue

6. I consider the main issue is whether the proposed extensions and, particularly the proposed external materials used on the extensions, would preserve or enhance the character and appearance of the building and the Cockermouth Conservation Area.

Reasons

Existing setting

7. The Kirkgate Centre is a substantial two-storey late Victorian school building situated within the historic core of Cockermouth Conservation Area. It is not a listed building but is identified as having a positive impact on the Conservation Area¹. Its dimensions reflect its institutional role with a rectangular footprint of 25.0m x 6.5m orientated approximately west to east with a two-storey outshot to the north. It has high ceilings, particularly to the first floor, giving an overall height of 11.5 metres to the ridge. It is constructed of yellow-brown sandstone with dressed red sandstone for the quoins, window surrounds, gable copings and plinth. The windows on the south and east elevations have a strong vertical emphasis with red sandstone mullions and the two larger windows on the east gable having both mullions and a transom. They introduce a Tudor influence to the building and are an effective solution to lighting the large internal spaces. The roof is in grey Welsh slate with a decorative clay tiled ridge.
8. The Centre lies on a slightly elevated site bounded by Bitter Beck to the north, Kirkgate to the west, a public car park to the south and a grassed open space with trees and a footpath along Bitter Beck, to the east. It is overlooked by the backs of terraced properties in St Helens Street and Kirkgate. They are of a more domestic scale and generally older than the Centre. Their walls are mostly painted stucco or roughcast with some brick. Those on St Helens Street on the opposite side of Bitter Beck are listed buildings although they have been considerably altered by modern rear extensions. Most of those on Kirkgate are also listed. To the south of the car park the hickledy pickledy arrangement of the roofs and outbuildings of Kirkgate, stepping up the rising ground above the car park and surmounted by the spire of the parish church, gives a pleasant setting. Kirkgate itself also has considerable character. It is one of the original town entrances, old and narrow with a medieval feel to it, but opening out briefly where it crosses Bitter Beck giving views of the appeal site to the east and a town centre car park to the west.

The need for change

9. After being vacant for a number of years the school building was converted into a theatre and arts centre in 1995 after being the subject of a successful local campaign to save it from demolition and to retain it for community use. It is

¹ Cockermouth Conservation Area Character Appraisal 2006

well placed in the town centre close to car parking and bus routes. It is also a good performance venue. The first floor has been transformed into an auditorium with a mezzanine floor under the stage providing changing rooms. The ground floor provides a general purpose hall and exhibition space. However, access to the first floor is difficult and all the ancillary accommodation is cramped, including the box office, reception area, storage areas and office space.

10. The Centre now supports a full programme of public performances and events and is well used by other voluntary organisations. It has also become the base for delivering outreach entertainment and arts activities to rural communities in West Cumbria. The appellants are seeking to improve access and increase office, circulation and storage space. In addition to providing this operational space the proposals include a cafe and bar area and a more welcoming entrance to help the Centre reach a wider audience and to increase turnover. There is also a requirement for greater energy efficiency.

The design concept

11. To meet these objectives the proposal is to extend the building to give some 418m² of additional floorspace resulting in a 90% increase in the size of the existing building. This would be accommodated in two-storey extensions on three sides of the building consisting of:
 - A small pitched roof extension to house a new internal staircase to the east gable.
 - A substantial extension between the west gable and Kirkgate. Broad steps and a public arts display area would lead up to a fully glazed front gable elevation. Inside would be new stairs and lift, ground floor reception and cafe and first floor bar/cafe and meeting room. It too would have a pitched roof to match that of the existing building but with a flat roofed element linking to the existing outshot on the north side.
 - A further flat roofed extension on the north elevation, wrapping round the building between the outshot and the new staircase on the east gable to accommodate offices, toilets, circulation and means of escape. The first floor would be cantilevered out to allow outside ground level access between the rear of the building and Bitter Beck.
12. Rather than copying the existing building style and materials the proposed extensions are designed as visually subordinate elements in contrasting matt grey profiled zinc sheet and glazing. The zinc cladding is chosen principally to introduce a contemporary style and materials to act as a foil to the existing building. However, it would also be technically beneficial because the foundations for a lightweight structure would avoid having to consider reinforcing the retaining wall to Bitter Beck and because the construction period would be significantly less than with a traditional building. It would also be cheaper than traditional construction methods.
13. The scheme would improve energy efficiency through improved internal insulation and the installation of an array of solar photovoltaic panels on the south facing roof slope of the existing building. Sedum on the flat roofs would reduce the rate of surface water run off. On the north elevation the new build would reduce noise levels experienced by the St Helens Street properties.

14. In developing the design the appellants, as recommended in the National Planning Policy Framework (NPPF)¹, sought an independent design review from Places Matter, a national organisation set up to promote good design. They also worked with the Cokermonth Civic Trust, the Council's Conservation Officer and English Heritage. The design went through a number of iterations before being submitted for determination, at which stage it was supported by all these parties. Local opinion was strongly divided as to the merits of the scheme and remains so.

Effect on character and appearance

15. The subsidiary nature of the extensions and the use of a contrasting but visually low key zinc metal finish would retain the dominance and form of the original building including its pleasing south elevation. However, there would be some loss of its heritage value in that the fine windows in the east gable would no longer be seen although they would be partially retained as features in the internal layout. Additionally the solar panels would introduce a new and visually intrusive structure onto the existing slate roof.
16. In the wider context of the Conservation Area the Centre is a stand alone building whose size and external materials distinguish it from surrounding properties. They reflect the period in which it was built and its function. The proposed expansion would allow the building to continue to serve a viable community use. Its scale and massing when extended would maintain a satisfactory relationship with surrounding development and the new west entrance would improve the interface between the Centre and Kirkgate and the town centre. Indeed the views into the building from the front and from the inset glazing panels would reflect its public and outgoing role within the community. Zinc cladding and large areas of glazing are contemporary materials which would help to differentiate between the new and the old in a way that would preserve the integrity of the existing building.
17. I find that the proposed scheme would create a new building of considerable interest and vitality which, notwithstanding the alterations to the east windows, would enhance the character and appearance of the Conservation Area. In policy terms it would accord with the objectives of the NPPF and particularly its requirement that development should seek to both make a positive contribution to the character and distinctiveness of a heritage asset and support its economic viability².
18. In relation to the use of materials the NPPF states that planning policies should not seek to impose architectural styles or particular tastes and they should not stifle innovation. They may, however, support the promotion or reinforcement of local distinctiveness³. In this case the Centre is a detached building of some individual merit. The contemporary materials used assist in ensuring that the historical and architectural distinctiveness of the building is retained whilst creating a new building that has a socially, environmentally and economically sustainable future.
19. Saved Policy CO2 of the Allerdale Local Plan⁴ (LP) deals with extensions in conservation areas. They should preserve or enhance the character and

¹ *National Planning Policy Framework*. Communities and Local Government. March 2012. Paragraph 62

² NPPF paragraphs 126 and 131

³ NPPF paragraph 60

⁴ *Allerdale Local Plan*. Adopted November 1999

appearance of the building and make use of architectural detailing and materials compatible with its character and setting. Any features of historic or architectural interest should be retained. The written justification to the policy says that non traditional materials will only be permitted in less sensitive locations.

20. In the present case the location of the building, surrounded as it is by a car park, a utilitarian prefabricated building in the car park and the backs of properties on three sides, could reasonably be described as less sensitive. There should therefore be no bar, as far as LP Policy CO2 is concerned, to the use of non traditional materials. There would, however, be some loss of heritage value which would conflict with this policy. However the policy was established some time ago and has been overtaken by national guidance, most recently the NPPF. The approach now, when considering the effect of development on a non-designated heritage asset such as the Centre, is that any harm should be weighed against the public benefits of the proposal, including securing its optimum viable use.
21. LP Policy CO3 relates to new buildings in conservation areas rather than extensions. It reiterates the statutory duty to seek to preserve or enhance the character and appearance of conservation areas in terms of scale and proportions, building line, form and massing, architectural detailing and by the use of materials compatible with the character of the area. For the reasons set out, if the development were to be considered as a new building, I am satisfied that it would accord with this policy.
22. The Council is preparing a new Local Plan. Policy S27 the draft Local Plan¹ would replace the above policies. It reflects closely the approach in the NPPF. Heritage assets and their settings should be conserved and enhanced in a manner appropriate to their intrinsic historic value and significance, their importance to local character, distinctiveness and sense of place, and to other social cultural, economic or environmental benefits/values. Whilst little weight can be given to the policy at this stage it does reinforce the change in planning policy that has taken place in dealing with heritage assets since Policies CO2 and CO3 were adopted.
23. In assessing the impact of the proposal on heritage assets I have taken into account the setting of nearby listed buildings. The rear windows and gardens of properties on St Helens Street look out on the north elevation of the Centre on the other side of Bitter Beck. Apart from an external fire escape this is an unrelenting blank wall with some limited relief provided by the windows in the gable end of the existing outshot. The proposed extension would add some articulation and interest although to avoid overlooking there would still be few window openings. I consider there would be a neutral impact on the setting of these listed buildings. Elsewhere my overall conclusion that the scheme would benefit the Conservation Area would also apply to the setting of the listed buildings on Kirkgate.

Demolition

24. Appeal B proposes the demolition of the fire escape and parts of the east and west gable walls to facilitate the implementation of the main scheme under Appeal A. It would be impracticable and unlikely for these demolition works to

¹ Allerdale Local Plan (Part 1) Pre-Submission Draft May 2013

be implemented independently of the main scheme. The two applications go hand in hand. As I have determined that the main scheme would be acceptable, and this scheme now incorporates the partial retention of the east windows within the link to the staircase extension, then there is no reason not to permit the demolition works. In these circumstances there would be no conflict with LP Policy CO12 which only permits demolition in conservation areas where proposals for replacement would enhance the character and appearance of the area.

Other matters

25. A small terrace of cottages faces across Kirkgate towards the front of the Centre. The most affected property, No.8, is currently about 25 metres away. The south west corner of the proposed extension would come to a point about 13 metres from this property. Because of the elevation of the Centre the extension would rise to a height of about 8 metres above the ground floor window of No.8 and would block out a segment of sky currently visible above Bitter Beck.
26. This would have a significant impact on views from both the front living room and front bedroom in No.8 and would increase the sense of enclosure for someone in these rooms. However the extension would not be directly in front of the windows and with a separation distance of 13 metres I do not consider this would be unreasonably oppressive. There would also be the potential for some disturbance from comings and goings from the Centre but the likely level of activity would not be out of place in a town centre location. In neither case do I find that the proposal would lead to unacceptable living conditions.
27. Concerns are raised that the proposal represents an overuse of the site which makes no provision for servicing or for waste disposal. The Centre currently has a small parking area to the front which can be used for smaller deliveries. Larger deliveries of stage sets rely upon vehicles parking on the car park access road even though it has double yellow lines along the frontage with the Centre. The loss of the parking area at the front would transfer more loading and unloading onto the car park. Whilst this may cause some conflict with car park users it represents an inconvenience which, in my estimation, should not outweigh the other benefits of the scheme. There appears to be room within the site to manage waste and the necessary arrangements should be the subject of a condition.

Conditions

28. The Council has suggested conditions for both appeals which I have considered in the light of the tests in Circular 11/95¹. In addition to standard conditions relating to commencement and compliance with approved plans I consider in relation to Appeal A that there should be a requirement for further construction details of the zinc cladding, roof design including drainage, windows and solar panels. In this respect I note the advice in the Places Matter report that *it is essential to keep a clear language between the new and the old. We caution you that this is where it could go wrong if attention to detail is not followed through.*
29. I agree that a construction method statement is needed and specific attention given to ensuring that the construction phase does not harm the River Derwent

¹ DOE Circular 11/95 The use of conditions in planning permissions

Special Area of Conservation or the habitat of local protected species. To prevent undue disturbance to nearby residential occupiers, particular those in St Helens Street, controls should be placed on noise, vibration, odour discharges, hours of deliveries, noisy waste disposal activities and the location of waste storage. More generally there should be no outside music or eating and drinking. A lighting scheme is necessary to both protect nearby residents and bats who use the Bitter Beck corridor as a flight path. Finally, the building lies within the medieval heart of the town and an archaeological watching brief should be put in place.

30. Appeal B should be allowed only on the understanding that the main development goes ahead. A condition is needed to ensure that this is the case.
31. There is no likelihood of any site contamination being found and I see no need for a site contamination condition.

Conclusion

32. Notwithstanding the conflict with LP Policy CO2 I conclude that the proposed extension to the Kirkgate Centre is a well considered scheme. It would be a successful marrying of modern lightweight materials with an existing well proportioned building, retaining the essential character of the older building but creating a larger, more vibrant development which will serve the needs of the local arts community into the future. Overall it would enhance the character and appearance of the Conservation Area and would be a sustainable development reflecting closely established national planning guidance on design and heritage matters.
33. For the reasons given above I conclude that both Appeal A and Appeal B should be allowed.

Bern Hellier

INSPECTOR

Appeal A Ref APP/G0908/A/12/2188192

Schedule of Conditions (14)

- 1) The development hereby permitted shall begin not later than three years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: 10.2016/01A (location and block plan); 2016/10C (site plan); 2016/12B (elevations); 2016/13C (existing and proposed sections and elevations); 2016/14C (roof plan); 2016/15A (planning visuals); 2016/16 (notional demolition plan).
- 3) Development shall not commence until details, including detailed drawings and sections, of the zinc cladding profile, flat roof design, drainage arrangements for the new pitched and flat roofs, aluminium windows and solar panels have been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details.

- 4) No development shall take place, including any works of demolition, until a Construction Method Statement has been submitted to, and approved in writing by, the local planning authority. The approved Statement shall be adhered to throughout the construction period. The Statement shall provide for:
 - i) hours of working and of deliveries;
 - ii) a traffic management plan including the parking of vehicles of site operatives and visitors, and the loading and unloading of plant and materials;
 - iii) monitoring and mitigation of noise, vibration and light pollution;
 - iv) storage of plant and materials used in constructing the development;
 - v) wheel washing facilities;
 - vi) measures to control the emission of dust and dirt during construction; and
 - vii) a written procedure to deal with complaints.
- 5) During construction mitigation for protected species shall be carried out in accordance the measures set out in section 4.1 (watercourse habitat), section 4.2 (bats), 4.3 (otters) and 4.4 (general recommendations) of the ecological assessment carried out by Open Space dated October 2011.
- 6) Noise emitted from the premises shall not exceed the existing background LA₉₀ noise level by more than an overall 5dB(A) when measured 1 metre from the facade of the nearest noise sensitive uses in Kirkgate and St Helens Street.
- 7) When playing live or recorded music all external doors and windows on the premises shall remain closed except in the case of emergency. No live or recorded music shall be played outside the building.
- 8) Development shall not commence until details of the mechanical extraction system for the kitchen and plant room, including noise attenuation measures, predicted noise levels at the discharge point and odour abatement measures, has been submitted to and approved in writing by the local planning authority. The system shall be implemented as approved and maintained operational thereafter.
- 9) There shall be no outside use of the premises for eating or drinking purposes associated with the establishment.
- 10) The placing of bottles into receptacles outside the premises shall not take place outside the hours of 08.00 to 20.00 on any day or at any time on Sundays or Bank Holidays.
- 11) No deliveries shall take place to the premises outside the hours of 08.00 to 20.00 on any day or at any time on Sundays or Bank Holidays.
- 12) Development shall not commence until details of a lighting scheme for the site have been submitted to and approved in writing by the local planning authority. The scheme shall have regard to the recommendations for bats set out in section 4.2 of the ecological assessment carried out by Open Space dated October 2011. The scheme shall be implemented as approved prior to the occupation of the extensions hereby permitted.
- 13) Development shall not commence until details of the arrangements for the storage and disposal of waste from the premises have been submitted to and

approved by the local planning authority. The arrangements shall be implemented as approved prior to the occupation of the extensions hereby permitted.

- 14) Development shall not commence until an archaeological watching brief has been submitted to and approved in writing by the local planning authority. The brief shall be undertaken as approved.

Appeal B Ref APP/G0908/A/12/2188363

Schedule of Conditions (2)

- 1) The development hereby permitted shall begin not later than three years from the date of this decision but the demolition shall only be commenced immediately prior to or in conjunction with the development works approved in Appeal A in this decision letter.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plan: 2016/16 (notional demolition plan).