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## Appeal Decision

Site visit made on 17 January 2012

by **Wenda Fabian BA Dip Arch RIBA IHBC**

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

Decision date: 25 January 2012

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**Appeal Ref: APP/C1055/H/11/2159661**

**16-17 Friar Gate, Derby DE1 1BX**

- The appeal is made under Regulation 17 of the Town and Country Planning (Control of Advertisements) (England) Regulations 2007 against a refusal to grant express consent.
  - The appeal is made by Mr Gordon Lee-Fisher against the decision of Derby City Council.
  - The application Ref DER/05/11/00526/PRI, dated 6 May 2011, was refused by notice dated 6 July 2011.
  - The advertisement proposed is 1 x trough light above the fascia signage on front elevation and 2 x internally illuminated projection signs.
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### Decision

1. That part of the appeal that relates to the 2 x internally illuminated projection signs is dismissed. That part of the appeal that relates to 1 x trough light above the fascia signage on front elevation as applied for is allowed and consent granted for it. The consent is for five years from the date of this decision and is subject to the standard time limit condition set out in the Regulations.

### Main Issues

2. The main issues in this appeal are the effect of the proposal on the special architectural and historic interest of the listed building, its effect on visual amenity and whether it would preserve or enhance the character or appearance of the Friar Gate Conservation Area.

### Reasons

3. The appeal building is listed, Grade II, and lies on a main road through the conservation area where policy E18 of the *City of Derby Local Plan Review*, 2006, requires that development should preserve or enhance the character or appearance of the area. It is a fine brick 17<sup>th</sup> century three storey terrace building with a fourth floor in the gabled roof. It has stone dressings to the gables and to window and door openings, stone corner quoins, and a stone string course at first floor window head level.
4. The restaurant occupies the whole main frontage at ground floor, with a series of traditional glazed shop-front casings under a continuous deep sign fascia, with a lead-flashed cornice formed of traditional blind boxes. The building is at the corner onto a side road and there is a further short simple glazed shop-front frontage with a deep fascia facing it.

5. The Council's *Shopfront and Advertisement Guide*, draft December 2008, acknowledges the need for external illumination of the fascia for pubs and restaurants which open late at night. It states that illumination may be allowed, so long as it is discreet. It specifically resists swan neck or projecting spotlights on listed buildings and in the conservation area, and seeks trough lights over hanging signs or halo lit individual letters attached to the fascia. Halo lit individual letters have been allowed and installed on the side frontage to the appeal property.
6. Signage in the form of individual letters depicting the restaurant name (in the same font as at the side, but not halo lit) has also already been installed on the deep front fascia, directly above the main entrance door. The Council has granted consent for this aspect of the signage, but resists the trough light also installed above it. This slim trough light, finished in the same colour as the sign fascia and cornice, has been installed on two simple slender straight circular section brackets (with hidden fixings) that project a short way in front of the fascia, from immediately below the blind box.
7. The Council would prefer this front signage to be halo lit, as at the side. However, the trough light is minimal in its projection and depth and extends above only the width of the sign lettering – approximately 2.6m long. It has a simple discreet uncluttered appearance, which albeit of its time, blends with the traditional shopfront and impinges little in the context of the listed building. Its appearance conforms to the aim of the Council's draft guidance; which is that illumination should be discreet.
8. The Council is concerned that the light partly masks the restaurant name, but I have seen that from the footway outside or further along on the same side of the street this is not so. A small degree of masking may occur from opposite, where the eye level is higher as the ground level rises, but this is only in very limited views and does not fundamentally affect the utility of the sign.
9. I conclude that the trough light as installed does not harm the special architectural interest of the listed building or the visual amenity of the surrounding area and, thus, preserves the character and appearance of the Friar Gate Conservation Area. Consequently, it complies with development plan policy.
10. Turning to the two projecting signs that have been installed, these are circular with a short neat spacer bracket that is fixed to the main shop fascia. Although large, 0.75m in diameter, they are in proportion to the wide deep fascia, the restaurant shopfront and the large listed building. By day, the signs are slim in relation to their overall size, cream coloured to match the shopfront and not out of place in the context of the contemporary but traditional appearance of the restaurant; the materials are similar to those used in the construction of the fascia lettering. However, the signs are internally illuminated and after dark this transforms their appearance.
11. At night they become a clearly modern installation alien to and at odds with the fine discreet detailing of the historic building and of the other more recent aspects of the restaurant frontage and signs. When illuminated they are dominant features on the façade of the listed building and are visually intrusive in the conservation area. This is an effect specifically resisted by the Council's draft guidance, which seeks to restrict projecting signage to painted timber hanging swinging boards with trough lighting.

12. On this aspect of the appeal I conclude that the two projecting internally illuminated signs harm the special architectural interest of the listed building and harm the visual amenity of the surrounding area. Thus, they fail to preserve the character and appearance of the Friar Gate Conservation Area and do not comply with development plan policy.
13. For the reasons given above I conclude that the appeal should succeed in part and fail in part. As the trough light faces away from the highway, the light is screened from drivers and the suggested condition relating to this is not necessary. The trough light has already been installed and no condition other than the standard time limit is necessary.

*Wenda Fabian*

Inspector



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# Appeal Decision

Site visit made on 14 February 2012

**by Keith Manning BSc (Hons) BTP MRTPI**

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

**Decision date: 17 February 2012**

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**Appeal Ref: APP/C1055/D/11/2167790**  
**119 Old Mansfield Road, Derby DE21 4SA**

- 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 Mr Steve Oliver against the decision of Derby City Council.
  - The application Ref DER/08/11/01029/PRI, dated 25 August 2011, was refused by notice dated 3 November 2011.
  - The development proposed is first floor extension to provide new bathroom facility.
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## Decision

1. The appeal is dismissed.

## Main Issue

2. The main issue is the effect of the proposed development on the living conditions of the occupiers of 117 Old Mansfield Road with regard to privacy.

## Reasons

3. The appeal site is one of a group of closely spaced detached houses on Old Mansfield Road with compact gardens which are strongly influenced in form by the slope of the land, which limits the available space immediately to the rear.
4. Although set back to some extent, the balcony proposed as part of the extension at issue would nevertheless afford commanding views at close quarters across the rear garden of 117, potentially negating all sense of privacy that its constrained physical circumstances might otherwise afford.
5. I note that the appellant is willing to plant trees but such screening would have to be comprehensive and substantial to be effective and, in the confined space available, would have a harmfully enclosing effect. Either way, the living conditions of occupiers of 117 would be unacceptably compromised. Whilst I note that the present occupiers do not object, the harmful effect of the extension in the form proposed would be permanently damaging.
6. The harm to the living conditions I have identified, by reason of loss of privacy, cannot be effectively mitigated by the imposition of planning conditions and would conflict harmfully with the intentions of saved policies H16 and GD5 of the Council's local plan, which concern house extensions and amenity, including loss of privacy. No considerations sufficient to outweigh that harm have been identified and I therefore conclude that the appeal should be dismissed.

*Keith Manning*

Inspector