



Appeal Decision

Site visit made on 12 May 2026

by **V Simpson BSc (Hons) MSc MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 17 June 2026

Appeal Ref: 6004927

The Amulet, 7 Market Place, Shepton Mallet BA4 5AZ

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
 - The appeal is made by Mr K Newton against the decision of Somerset Council.
 - The application Ref is 2020/1414/FUL.
 - The development proposed is described as change of use of redundant theatre to residential and retail use, with associated works
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. Notwithstanding the description of the proposal in the banner, the appeal is dealt with on the basis that the development proposed is that indicated on the decision notice and the appeal form, i.e. Change of use from theatre (sui generis) to mixed use, 7no residential flats (C3), 1no retail unit (A1) and associated works, as this more accurately describes the scheme shown on the submitted plans.
3. The appeal site is within the Shepton Mallet Conservation Area (the CA). Moreover, near the site and within or on Market Place are the Grade II listed buildings known as Shambles¹ and Nos 9²; 10³ and 11 Market Place⁴, as well as the Grade II* listed Market Cross⁵ (the Listed Buildings). Consequently, in reaching my decision, I have exercised my statutory duties under sections 66(1) and 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 – as amended (the Act).
4. The appellant has submitted an amended 'Plans & Elevations as proposed' drawing in support of the appeal. This omits a 2-storey extension addressing Market Place. However, the Government's relevant procedural guide for planning appeals⁶ advises that the appeal process should not be used to evolve a scheme. That being the case, and on the basis that the omission of the proposed extension would amount to a substantial difference to the scheme, this appeal is determined based on the proposed plans that were before the Council at the time the application was determined.

¹ Official List entry number 1173341

² Official List entry number 1058384

³ Official List entry number 1173365

⁴ Official List entry number 1345245

⁵ Official List entry number 1058383

⁶ Procedural Guide: Planning appeals – England. For appeals relating to applications dated on or before 31 March 2026

5. Having regard to advice in Planning Practice Guidance on non-designated heritage assets (NDHA)⁷, there is no compelling information before me demonstrating that the Amulet is 'clearly identified' as a NDHA. Consequently, in determining this appeal, I have not treated it as such.

Main Issues

6. The main issues are;
 - the effect of the development on the provision of community facilities in the area; and
 - whether the development would i) preserve the settings of the Listed Buildings within and adjacent to Market Place, and ii) preserve or enhance the character and appearance of the Conservation Area.

Reasons

Community facilities

7. The appeal site comprises a large building in a town centre location within Shepton Mallet. It is understood that the last lawful use of the whole building was as a theatre. Despite a four-month run of events in the foyer in 2025, and a limited run of pantomimes by a local amateur dramatic group, it is understood that the building has not been regularly used as a theatre since the Bristol Academy of Performing Arts ceased using the premises in 2011.
8. During my site visit, I observed that part of the building, including the main theatre seating area and stage, was being used as a commercial gym, and that associated partition walls had been erected, dividing parts of the main stage from the rest of the auditorium. However, it is understood that an application for a certificate of lawfulness for the use of part of the building as a gym has recently been refused⁸. Moreover, I have no reason to doubt that the works undertaken to facilitate the provision of this gym are reversible. Much of the rest of the building appeared to be vacant at the time of my site visit, and the interior fittings and fixtures in parts of the building - including the dressing rooms and the toilets to the rear of the mainstage, were observed to be in poor condition.
9. An aim of policy DP17 of the Local Plan⁹ is to retain community facilities that contribute to creating a sense of community. To this effect, and except in limited identified circumstances, this policy seeks to prevent the loss of sites or premises last used for local facilities and services. The exceptions include where there is or would be suitable alternative provision in the locality; where the ongoing existing use would perpetuate amenity, highway or other environmental problems; or, where there is no likelihood of a viable community use for services and facilities of a commercial nature.
10. In support of this policy, Mendip Council adopted a supplementary planning document (SPD) on marketing and business evidence to support planning applications. Where a change of use is proposed on the grounds that the site has no viable future as a commercial or employment site, this SPD indicates that evidence should be provided demonstrating that the land or property has been

⁷ Paragraph: 040 Reference ID: 18a-040-20190723

⁸ Application ref: 2026/0070/CLE

⁹ Mendip District Local Plan 2006-2029 – Part 1: Strategy and Policies – adopted December 2014

fully exposed to the market at an appropriate valuation and that a range of similar uses have been considered.

11. Shepton Mallet Town Council's historic comments regarding the condition of public toilets in the building, and its assertion that the historic public management of the building resulted in financial costs to taxpayers are noted. However, it is understood that there are no other performing arts or cultural venues within the town that are readily comparable with the Amulet. Moreover, it is clear that there is much local support for the building to be re-opened as a performance and community space. To this effect, a charitable community benefit society has been established; potential grant funding has been identified; and substantial funds have been raised from a community share offer, towards acquiring and refurbishing of the building. Whether or not the community benefit society are currently in a position to purchase the Amulet, the efforts of this organisation demonstrate the considerable local support and demand for the continued use of the appeal site as a theatre and community space.
12. I accept that other non-theatre community uses of the building may require planning permission. However, no compelling marketing evidence has been provided, demonstrating that both the whole of the building, and the part that is proposed to be converted to residential accommodation, has been offered for rent and for sale at a reasonable market price - as both a theatre and for other community facility uses. That being the case, and despite the financial costs that are likely to be incurred in updating the building to meet modern health and safety standards, I cannot establish that there is not a financially viable demand for its use as a community facility.
13. Moreover, even if it could be demonstrated that there is no viable community use for the whole building as a single facility, the ongoing presence and operation of a gym within part of the building, indicates that there is ongoing commercial demand for the use of smaller parts of the building as a community facility.
14. Consequently, it has not been possible to establish that there is no likelihood of a viable community use of either the whole Amulet building, or the part that would be used to provide residential accommodation.
15. For these reasons, the development would result in the harmful reduction in the provision of community facilities in the area, and in this respect, it would conflict with policy DP17 of the Local Plan.

Heritage Assets

Significance / Special interest

16. The large CA covers much of the town centre as well as several outlying areas. The CA appraisal¹⁰ indicates that Shepton Mallet developed as a market town in the Medieval period - at a time when much local prosperity relied on the local wool industry, and that it continued to thrive through to the 17th and 18th centuries, with the town expanding along the river. The ongoing presence of an early market cross and the surviving portions of stalls within an otherwise open market place, together with the remaining historic buildings from later centuries that face the market place, enable the steady historic development of the town to be readily

¹⁰ Mendip District Council – Conservation Area Character Appraisal and Management Proposals – Shepton Mallet

understood. Moreover, both individually and together these buildings and the Market Place, contribute to the special interest of the CA as a whole.

17. The Listed Buildings at numbers 9, 10 and 11 Market Place (no's. 9, 10 and 11), all address the market place. The official list entries for these buildings, identify them as houses and shops of varying ages, with no's. 10 and 11, dating from circa 1600, and no. 9, dating from circa 1800. No's. 10 and 11 are timber-framed structures with historic shopfronts, and No. 9 has a limestone rubble front with ashlar blockwork around the mainly glazed ground-floor arched openings, that face the market place.
18. The evidence indicates that Market Cross (the Cross), which is also a scheduled monument, was originally established in the current location in circa 1500. At, and from that time, it would have helped to validate transactions within the adjacent market place, and it would have served as a focal place from which official proclamations and announcements were made. Despite having been much altered and enlarged over time, such that it is now a substantial covered octagonal shaped structure with a tall 'spire type' feature mounted by a cross, it continues to stand as a prominent feature in the town at the junction between Market Place and Town Street.
19. While much reconstructed and restored, the official list entry for Shambles, indicates that it dates from the 15th Century. However, only a short section of the low oak structure with a pantile roof remains towards the centre of the Market Place.
20. For these reasons, the Listed Buildings have both collective and individual significance, which is derived from their architectural interest and from their historic interest in association with their town centre and market place locations. Furthermore, the wider townscape backdrop in and around the market place - which contains several shops and community facilities and other historic market related structures, forms part of the settings of all the previously identified Listed Buildings, and makes a substantial contribution to their significance.

Effects

21. It is understood that the Amulet building was constructed in circa the mid 1970's. Despite parts of it being taller than many nearby buildings, this 'brutalist style' building has a relatively simple, unfussy and lowly adorned exterior. This enables it to sit comfortably with neighbouring buildings, including the Listed Buildings and others that face the historic market place. For these reasons, the Amulet building is not unduly prominent when viewed from locations in Market Place or Town Street.
22. The appeal scheme would not result in physical loss or harm to the Listed Buildings themselves. Nor will it harm their individual or collective historic interests. However, the scheme includes a 2-storey extension that would address the historic market place. In terms of its appearance, this highly glazed addition would be incongruous with the distinctive yet simple exterior detailing more typically found on the Amulet building, and it would thereby harmfully erode the distinctive character of this building. Moreover, its scale and forward projection, and the amount and form of the glazing within it, mean that this extension would be a visually prominent and incongruous addition within Market Place.

23. Such development would distract from and reduce the experiential authenticity of the historic market place and the Listed Buildings within and around it. Consequently, and even if the rest of the appeal scheme would have a neutral effect on the significance of both the CA and the Listed Buildings, the scheme as a whole, would harmfully reduce the contribution that the settings of the Listed Buildings make to their significance. For the same reasons, and albeit to a small extent, it would erode the special interest of the CA as a whole.
24. For these reasons, the development would not preserve the settings of the Listed Buildings within and adjacent to Market Place, and it would not preserve or enhance the character and appearance of the Conservation Area.

Heritage balance and conclusion

25. In line with paragraph 212 of the National Planning Policy Framework (the Framework), I give great weight to the conservation of designated heritage assets.
26. Although the Cross is a designated heritage asset of the highest significance, the separation distance between it and the appeal site, and the presence of the intervening Shambles, means that the harm that would be caused to this designated heritage asset would be to the lower end of the scale of less than substantial. Moreover, because the development would adversely affect only part of the settings of the other Listed Buildings and erode the special interest of a small part of the CA as a whole, the associated harm that would be caused to each of these designated heritage assets would also be to the lower end of the scale of less than substantial. Nevertheless, these findings of harm to each of the designated heritage assets carry considerable importance and weight.
27. That being the case, paragraph 215 of the Framework indicates that the harm to designated heritage assets should be weighed against the public benefits of the proposal, including, where appropriate, securing its optimum viable use.
28. The appeal scheme would result in the formation of 7 small residential units, in a town centre location where future occupiers would have good access to a wide range of local services and facilities. In addition, and because the site is in an area with a large housing delivery shortfall, great weight is given to the public benefits that would result from the delivery of the proposed housing in this location.
29. There is no dispute that the building is currently underutilised, and that the appeal scheme would lead to the re-use and refurbishment of a significant part of it. However, the appellant has suggested an alternative scheme that would deliver the same quantum of housing units, without the front extension. That being the case, I am not convinced that the proposed scheme is the most appropriate and least harmful way of securing the public benefits associated with the re-use of the building.
30. The scheme would result in short-term economic benefits during construction, and the creation of the retail unit has the potential to result in the longer-term economic and social benefits – from employment creation and its contribution to enhancing the vitality and viability of the town. However, the modest scale of the scheme and the absence of compelling evidence regarding the extent of any longer-term economic and social benefits, mean that only a little weight can be attributed to these public benefits.

31. The provision of the proposed lift would improve accessibility to parts of the building, and represent a public benefit of the scheme. However, the location of this lift is such that future occupiers of the development would not be able to use it to access their flats. That being the case, little weight is attributed to the accessibility improvements that would result from the scheme.
32. When taken together, these public benefits would not outweigh the previously identified harm that would be caused to the significance of each of the Listed Buildings and to the CA.
33. Consequently, the development would conflict with policies DP1, DP3 and DP7 of the Local Plan. Collectively, and amongst other things, these seek to ensure that development preserves and/or enhances the significance of heritage assets and that it contributes positively to the maintenance and enhancement of local identity and distinctiveness. Where associated harm would be caused, these policies require that the harm be balanced against the wider benefits of the scheme.

Other Matters

34. The previously identified public benefits must also be considered in the context of the scheme as a whole. However, for the reasons previously given, these benefits do not outweigh the identified harms and the associated development plan conflict.
35. Planning permission was previously granted for the creation of a residential flat within part of the building subject of this appeal – Appeal ref APP/Q3305/A/14/2227902. While I do not know the full circumstances of that case, it is understood that the permission authorised the formation of a single second floor flat, and that it did not include a ground and first floor extension. Consequently, and due to its smaller scale and extent, this previously consented scheme is not directly comparable with the development subject of this appeal.
36. It is also understood that planning permission was granted in 2007 for development on the appeal site, which included a new entrance feature and alterations to the external appearance¹¹. Whether or not this permission authorised a Market Place facing extension which would have had a greater adverse effect on the significance of the CA and the Listed Buildings than the scheme subject of this appeal, the main parties indicate that this previously consented scheme does not represent a 'fall-back, and I have no reason to find otherwise. Moreover, the passage of time and associated changes to the planning policy context, prevent this earlier permission from leading me away from my previous conclusions in respect of the appeal scheme.
37. On the basis that the Council is unable to demonstrate a five-year housing land supply, paragraph 11.d) of the Framework is relevant in the consideration of this appeal. This paragraph provides a presumption in favour of sustainable development unless certain circumstances apply. Once such circumstance, at 11. d) i. is where the application of policies in the Framework provide a strong reason for refusing the development proposed. Footnote 7 of the Framework then confirms that the policies referred to in 11.d) i. include those related to designated heritage assets. In this case, the multiple number of designated heritage assets that would be adversely effected by the scheme – which include a more important grade II* listed building, provide a strong reason for refusing the proposed

¹¹ Planning permission ref 067900/023

development. That being the case, the presumption given by paragraph 11.d) is not triggered in this case.

38. The evidence indicates that the site is within the zone of influence of both the Somerset Levels and Moors Ramsar site and the Somerset Levels and Moors Special Protection Area. However, there is no need to consider the implications of the appeal scheme on these protected sites, because it is unacceptable for other reasons.
39. The Grade I Listed Church of St Peter and St Paul¹² is close to the east side of the Amulet building. It is a parish church, which according to its official list entry, is principally a 12th, 13th and 14th century building that was extensively altered in the 19th century. From the evidence before me, the special interest and significance of this heritage asset stems principally from its archaeological, historic and architectural interests. However, it also gains some significance from its associated churchyard and wider built-up townscape setting. Small alterations are proposed to the east side of the amulet building, which include the addition and alteration of windows, and the development would change the way the building is used. However, these changes would not adversely affect how the heritage asset would be experienced or how its intrinsic heritage merits could be understood. Consequently, the setting of this designated heritage asset would be preserved, and its significance would not be harmed.

Conclusion

40. The proposal conflicts with the development plan and the material considerations do not indicate that the appeal should be determined other than in accordance with it. I therefore conclude that this appeal should be dismissed.

V Simpson

INSPECTOR

¹² Official list entry number 1345202