

Appeal Decision

Site visit made on 28 September 2016

by Andrew Dale BA (Hons) MA MRTPI

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

Decision date: 20 October 2016

Appeal Ref: APP/Y5420/C/16/3145767

94 Myddleton Road, London N22 8NQ

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991.
 - The appeal is made by Mrs Jolanta Gemza (Domipol) against an enforcement notice issued by the Council of the London Borough of Haringey.
 - The enforcement notice, numbered UNW/2015/00885, was issued on 1 February 2016.
 - The breach of planning control as alleged in the notice is: "Without planning permission the unauthorised installation of a shopfront."
 - The requirements of the notice are to remove the unauthorised shopfront in its entirety and remove from the land any resultant debris.
 - The period for compliance with the requirements is one month.
 - The appeal is proceeding on the grounds set out in section 174(2) (a) and (f) of the Town and Country Planning Act 1990 as amended. The application for planning permission deemed to have been made under section 177(5) of the 1990 Act as amended falls to be considered.
-

Decision

1. The appeal is dismissed and the enforcement notice is upheld. Planning permission is refused on the application deemed to have been made under section 177(5) of the 1990 Act as amended.

Preliminary matter

2. I visited the site at the appointed time. No representative from the Council was there. After waiting for a short while, the appellant was advised that as I could see all I needed to see from public vantage points, the site visit would proceed on an unaccompanied basis. I am satisfied that neither the appellant nor the Council would be prejudiced by this course of action.

The appeal on ground (a) and the deemed planning application

3. The appeal concerns a ground floor shop which forms part of a three-storey terraced building. Like a number of other retail and commercial units along Myddleton Road, the ground floor shop unit projects forward of the floor plan above. Myddleton Road dates from the Victorian period and is a local shopping street. It falls within the Bowes Park Conservation Area.
 4. Having regard to the reasons given in the enforcement notice for its issue and to the statutory duty set out in section 72 of the Planning (Listed Buildings and
-

Conservation Areas) Act 1990, I consider that the main issue in deciding if planning permission ought to be granted is whether the unauthorised shopfront preserves or enhances the character or appearance of the Bowes Park Conservation Area.

5. The subject conservation area is a designated heritage asset of some significance. Whilst the Council has not supplied a copy of its supplementary planning guidance SPG 3.3 (or for that matter SPG 1a, SPG 2 and SPG 6a), I agree with the Council that the Myddleton Road shopping street is a key element of the special character and appearance of the conservation area. The street supports a wide range of independent businesses. Given their prominent locations on a level with the street, it is inevitable that the shopfronts have a significant effect on the character and appearance of the properties along the street.
6. Given the passage of time, some existing shopfronts are now unsatisfactory in terms of their design and materials. Others are satisfactory. A number of shopfronts are exceptional and fully complement the Victorian or Edwardian origins of the host properties, even where they have been recently installed. The shopfronts at nos 74/76 (Hobarts estate agents), no. 122 (Treewood estate agents), no. 124 (Andy's Dry Cleaners), no. 126 (Pro Cancer Research Fund) and no. 128 (The Hub) are excellent examples of timber shopfronts of a traditional design, which make an important contribution to the character and appearance of the conservation area.
7. I have not been supplied with any drawings or photographs of the old, pre-existing shopfront. The appellant indicates that it was in a "very bad unsafe condition" and that the "old doors were wooden". The poor condition of the previous shopfront would not justify replacing it with a shopfront of unsatisfactory design; rather it was an opportunity to improve the character and quality of the area and the way it functions. I feel that such an opportunity has been wasted in this case.
8. The unauthorised glazed shopfront, including the glazed entrance door, may have been inserted in the existing opening and not affected the masonry columns to each side but the large expanses of glazing and the metal framework appear contemporary in design and fail to reflect the traditional appearance and architectural composition of the host building and surrounding area. The shopfront does not include a proper stall riser or any other traditional shopfront features. The metal frames, even though they appear to have been covered with dark green paint, do not replicate the detailing and profile of a well-designed, timber shopfront. The appellant wishes to retain the existing shopfront, add some borders to the glass to create transoms, mullions and a stall riser and perhaps change the colour. I have noted the submitted drawings but the material for the new borders is not clearly specified. In any event, adding further metal or adding wood on to the existing metal framework would not provide a satisfactory design solution.
9. In all, I consider that the unauthorised shopfront by reason of its design and inappropriate use of materials detracts from the historical and architectural integrity of the area and fails to preserve or enhance the character or appearance of the host building and the conservation area. I attach considerable importance and weight to this matter given my statutory duty set

out in paragraph 4 above. The significance of the designated heritage asset – the conservation area – has been diluted. The development conflicts with Policies 7.4, 7.6 and 7.8 of the London Plan 2015, Policies SP11 and SP12 of the Haringey Local Plan 2013 and saved Policies CSV5 and UD3 of the Haringey Unitary Development Plan 2006. These development plan policies taken together place emphasis on high quality design and the conservation of heritage assets.

10. In terms of the National Planning Policy Framework (the Framework), the magnitude of the harm to the significance of the designated heritage asset may properly be considered to be less than substantial. That being the case, paragraph 134 of the Framework advises that the harm should be weighed against the public benefits of the development, including securing optimum viable use. In this respect, the appellant has not really articulated any points in this appeal that could be included as a public benefit. There are no public benefits identified that can be considered to outweigh the harm I have found. The balance of judgement therefore remains firmly in favour of the preservation of the conservation area. Paragraph 132 of the Framework indicates that great weight should be given to a designated heritage asset's conservation when considering the impact of development upon its significance.
11. I find on the main issue that the unauthorised shopfront does not preserve or enhance the character or appearance of the Bowes Park Conservation Area. There is conflict with the development plan and I find no other material considerations of sufficient weight to justify a grant of planning permission. I conclude that the appeal on ground (a) should fail and that planning permission should not be granted on the deemed planning application.

The appeal on ground (f)

12. This ground of appeal is that the requirements of the notice exceed what is necessary to achieve its purpose. The purposes of an enforcement notice are set out in section 173(4) of the 1990 Act as amended and are to remedy the breach of planning control or to remedy any injury to amenity which has been caused by the breach.
13. Since the notice requires the removal of the shopfront in its entirety, the purpose of the notice is clearly to remedy the breach in its entirety rather than to remedy injury to amenity by requiring some lesser steps to be taken.
14. The appellant has suggested retaining the shopfront, adding some borders to the glass to create transoms, mullions and a stall riser and a change of colour. These measures are lesser steps designed to overcome the harm and would not provide a remedy to the breach of planning control that has occurred. Even so, I have dealt with the proposals put forward by the appellant in my consideration of the appeal under ground (a). I have found them to be insufficient.
15. The steps specified in the notice do no more than is necessary to achieve the purpose of completely remedying the breach. The steps are not excessive for that purpose. The appeal on ground (f) fails.
16. In considering this ground of appeal, I am alert to the fact that compliance with the notice will leave this retail unit without a shopfront. There is no

requirement in the notice, for example, to install a shopfront of the same design, materials and appearance as the shopfront that was previously in place. It seems that the appellant may well need to enter into discussions with the Council about the way forward. The Council has powers to extend the period for compliance with the notice under the provisions of section 173A(1)b of the 1990 Act as amended, should it consider that this would be appropriate and beneficial in the circumstances of the case.

Andrew Dale

INSPECTOR