
Appeal Decision

Site visit made on 6 October 2016

by Sandra Prail MBA, LLB (Hons), Solicitor (non-practising)

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

Decision date: 25 October 2016

Appeal Ref : APP/L5810/C/16/3144927

Land at Ground floor, 118 St Margarets Road, Twickenham, London, TW1 2AA.

- 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 Mr S. Jeevan against an enforcement notice issued by the Council of the London Borough of Richmond Upon Thames.
- The notice was issued on 18 January 2016.
- The breach of planning control as alleged in the notice is without planning permission the installation of a replacement shop front including external roller shutters, CCTV, security lights, ATM cash machine and front canopy.
- The requirements of the notice are (i) remove the shop front including the external roller shutters, CCTV, security lights, ATM cash machine and front canopy, (ii) reinstate the shop front to its original state prior to the breach of planning control as shown in the photograph attached to the notice and (iii) make good any damage arising from compliance with steps (i) and (ii) above.
- The period for compliance with the requirements is six months.
- The appeal is proceeding on the grounds set out in section 174(2) (a), (f) and (g) of the Town and Country Planning Act 1990 as amended.

Summary of Decision: the appeal is dismissed and the enforcement notice is upheld.

Preliminary Matter

1. The Appellant refers to the development as de minimis. But I find the breach of planning control to be material and determine the appeal accordingly.

Ground (a) appeal and deemed application

Main Issue

2. The main issue in the determination of this appeal is the effect of the development on the character and appearance of the host property and the surrounding area, with particular regard to its location in a Conservation Area.

Character and Appearance

3. The development plan (including the London Plan, Local Development Framework Core Strategy (the Core Strategy) and Development Management Plan (the DM Plan)) mirrors the National Planning Policy Framework (the Framework) in emphasising the importance of development that respects its setting. Policy CP7 of the Core Strategy provides that existing buildings of recognised high quality and historic interest will be protected from

inappropriate development and enhanced sensitively. Policy DM DC 1 of the DM Plan states that new development must be of a high architectural and urban design quality and contribute positively to its surroundings. Policy DM DC 7 of the DM Plan requires that proposals for new shop fronts or alterations to existing shopfronts should demonstrate a high quality of design which complements the original design in terms of proportions, materials used and detailing appropriate to the streetscene and the main property. I have also taken into account as a material consideration the Supplementary Planning Document: Shopfronts (the Shopfront SPD), the Design Guidelines for Shopfront Security (the Design Guidelines) and the Supplementary Planning Document: Buildings of Townscape Merit (the BTM SPD).

4. The appeal site is a ground floor retail unit of a three storey building located within a small shopping parade. It is currently in use as a post office and faces onto a busy road. The building is identified as a Building of Townscape Merit. It is located within the Crown Road Conservation Area (the Conservation Area) which is physically centred around St Margarets station and consists of the shopping and commercial centre serving the surrounding residential area. The shop fronts in St Margarets Road have generous private forecourts and many traditional shopfronts which contribute to the character of the area. The shopfronts of neighbouring properties are predominantly glass with discrete framing. A variety of muted shopfront colours contributes to the character of the area.
5. The site has a prominent location in the parade and is highly visible. The replacement shopfront the subject of this appeal is aluminium with some glazing and a vinyl finish. It is a vibrant red in striking contrast to the variety of more traditional pastel shades of neighbours. Whilst I recognise that block colour can be a feature of good design that it not the case in the circumstances of this case where the colour makes it stand out from its neighbours. Wide mullions and pilasters are modern in appearance and contribute to its visual dominance. The cash ATM, CCTV, security lights and front canopy contribute to a design that does not sit well in its setting which is characterised by traditional shopfront designs.
6. The Appellant argues that the development is an improvement of the former shopfront. I do not agree as the loss of original features has harmed the visual quality of the building and contributes to the erosion of the character and interest of the area. The shopfront by reason of its proportions, materials and detailing does not contribute positively to the streetscene. Whilst I recognise the benefits to the Appellant of corporate signage in this case the balance rests in favour of preventing undue harm to the character and appearance of the host Building of Townscape Merit and the character and appearance of the surrounding area. The development does not preserve or enhance the character or appearance of the Conservation Area.
7. The Appellant says that the impact of the development is lessened by its location on a busy road with a mix of uses and a relatively varied layout. But I find the development to be visually prominent and harmful to the character and appearance of the area. Whilst I recognise that there are shopfronts nearby which are not of high architectural design quality they are not so widespread as to be characteristic of the area. To permit this development would undermine

the Council's objective of retaining and improving the quality of shopfronts within the Conservation Area.

8. I understand the Appellant's concern to protect his property and I note the recent attempted robberies. But I am not persuaded that other alternative measures could not provide adequate security without causing undue harm to the character and appearance of the building and surrounding area. Internal grilles are identified in the Shopfront SPD as an acceptable form of security in Conservation Areas and for Buildings of Townscape Merit. I do not find exceptional circumstances that justify the identified harm.
9. I have taken into account that the premises have step free and disabled access but these factors do not lead me to alter my conclusions on the main issue. The development causes substantial harm to a designated heritage asset and no substantial public benefits outweigh that harm.
10. I conclude that the development causes harm to the character and appearance of the host property and surrounding area. It fails to preserve or enhance the character or appearance of the Conservation Area. It does not accord with relevant policies of the development plan (including policy CP7 of the Core Strategy and policies DM DC 1 and DC7 of the DM Plan), the Framework or the SPD.
11. I have considered whether conditions could overcome the identified harm. I have taken into account the Planning Practice Guidance. No conditions are suggested by the parties and I do not consider that any could overcome the identified harm.
12. For the reasons given above I conclude that the appeal under ground (a) should not succeed and planning permission should not be granted on the deemed application.

Ground (f) appeal

13. This ground of appeal is that the steps required to comply with the notice exceed what is necessary to meet the purpose for which the notice was issued.
14. Section 173 of the 1990 Act indicates that there are two purposes which the requirements of an enforcement can seek to achieve. The first is to remedy any breach of planning control which has occurred. The second is to remedy any injury to amenity which has been caused by a breach of planning control. In this case the steps required are to restore the property to its condition prior to the breach and therefore its purpose is to remedy the breach of planning control. No lesser step than restoration to its prior condition would satisfy that purpose.
15. The Appellant does not propose any specific lesser steps. Without any detail I cannot be sure that the injury to amenity caused by the breach would be remedied.
16. The ground (f) appeal does not succeed.

Ground (g) appeal

17. This ground of appeal is that the time given to comply with the notice is too short. The period for compliance is six months.

18. The Appellant argues that six months is an inadequate period in which to commission and carry out the physical alterations and allow the occupants reasonable time to make alternative business arrangements and provide customers with adequate notice. But I am not persuaded that six months is unreasonable. There is nothing before me to suggest that the required steps are complex or that six months is not practical from a business perspective. I have balanced competing public and private interest. The private interest of the Appellant in running his business and the public interest of bringing to an end the identified harm to the character and appearance of the host building and the Conservation Area without unnecessary delay. I find that six months strikes an appropriate balance.

19. The ground (g) appeal therefore does not succeed.

Formal Decision

20. 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.

S. Prail

Inspector