

Appeal Decision

Site visit made on 6 February 2017

by Andrew R Hammond MSc MA CEng MIET MRTPI

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

Decision date: 14 February 2017

Appeal Ref: APP/P4605/C/16/3155090

370-374 Dudley Road, Winson Green, Birmingham

- 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 Pinnu Khan against an enforcement notice issued by Birmingham City Council.
 - The enforcement notice, numbered 2015/0232/ENF, was issued on 7 July 2016.
 - The breach of planning control as alleged in the notice is without planning permission, the erection of an unauthorised single storey forward extension and the installation of roller shutters in the approximate position marked in green on the attached plan.
 - The requirements of the notice are remove the roller shutters, demolish the single storey front extension, remove all demolished materials from the site and restore the premises to their condition prior to the breach taking place.
 - The period for compliance with the requirements is 2 months after the notice takes effect.
 - The appeal is proceeding on the grounds set out in section 174(2)(a) & (f) of the Town and Country Planning Act 1990 as amended.
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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.

Ground (a) Appeal Main Issue

2. The main issue in this appeal is the effect of the development on the character and appearance of Dudley Road.

Reasons

3. The appeal site is within the Dudley Road Primary Shopping Area. Shop fronts along the road vary in design with some incorporating retractable canopies oversailing the rear of the footway.
 4. The appeal premises consist of a wide frontage of three former shop units which have been extended outwards under a corrugated plastic roof and with four roller shutters.
 5. Planning application 2015/08990/PA for the development was refused on 14 December 2015 with no appeal being made.
 6. Planning application 2016/00927/PA for the retention of single storey front extension and roller shutters was refused on 8 August 2016 and dismissed on
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appeal [Ref. APP/4605/Z/16/3153286]. That scheme would have incorporated minor amendments consisting of replacement of the corrugated plastic roof with a flat roof, changing the colour of the shutters from yellow to dark blue with 55% transparency and installing toughened glass panels to the end elevations.

7. The Inspector determining that appeal considered that given its extension forward of the original building line, the development was a dominant feature which is overbearing in the streetscene and out of character with surrounding shop frontages that adjoin the back of the footway. She concluded that the development was unduly prominent and incongruous, harmful to the character and appearance of the area.
8. There is no reason to disagree with the previous Inspector as to the effect of the forward extension, whether as enforced against or as proposed under the application 2016/00927/PA, on the streetscene of Dudley Road. By virtue of its detrimental appearance within the street it is contrary to saved Policies 3.8, 3.10 and 3.14 of the Birmingham Unitary Development Plan 2005, which seek to protect what is good in the City's environment and to improve what is less good; to prevent development which would have an adverse effect on the quality of the built environment; and set good design guidelines and principles respectively.
9. It is noted that the appellant has drawn attention to a similar development within one mile. However the details of that case are not known and each case must be considered on its individual merits. The development enforced against has been found to be harmful and contrary to policy.
10. For the reasons given above, the appeal on ground (a) fails.

The Ground (f) Appeal

11. Under ground (f) the appellant pleads that he was awaiting a decision on the above appeal, presumably on the basis that the incorporation of the amendments would constitute lesser steps than those required by the notice.
12. That appeal has been dismissed on the basis that the scheme, even if the proposed alterations were incorporated, would still be unacceptably harmful. The harm to amenity caused by the unauthorised extension could not be remedied other than by its complete removal as required by the notice.
13. The appeal under ground (f) must fail.

Conclusion

14. For the reasons given above I conclude that the appeal should not succeed. I shall uphold the enforcement notice and refuse to grant planning permission on the deemed application.

Andrew Hammond

Inspector