

Appeal Decisions

Site visit made on 2 March 2017

by Grahame Kean B.A. (Hons), PgCert CIPFA, Solicitor HCA

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

Decision date: 12 April 2017

Appeal A: APP/J1915/C/16/3156110

3 Northgate End, Bishops Stortford, Hertfordshire CM23 2ET

- 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 Luigi Forgione against an enforcement notice issued by East Hertfordshire District Council.
 - The notice was issued on 20 July 2016.
 - The breach of planning control as alleged in the notice is without planning permission, the installation of a new shop front.
 - The requirement of the notice is: remove the unauthorised shop front.
 - The period for compliance with the requirement is 4 Months.
 - The appeal is proceeding on the grounds set out in section 174(2)(a) of the Town and Country Planning Act 1990 as amended.
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Appeal B: APP/J1915/Z/16/3156111

3 Northgate End, Bishops Stortford, Hertfordshire CM23 2ET

- 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 Luigi Forgione against the decision of East Hertfordshire District Council.
 - The application Ref 3/16/1119/ADV, dated 13 April 2016, was refused by notice dated 13 July 2016.
 - The advertisement proposed is described as New shop Front with roller shutter.
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Summary of Decisions

1. Appeal A is dismissed and the enforcement notice is upheld with a correction.
2. Appeal B is dismissed.

Appeal A

Preliminary Matter

3. By s173(9) of the Act an enforcement notice must specify a period (which must have an ascertainable start and end date) after which any steps are required to have been taken or any activities are required to have ceased. The notice is imprecise as to when the period starts although it must not begin before the notice has taken effect and there is nothing within the notice to suggest that the period is to start at a later time after it becomes effective. I infer from the notice as a whole that the period commences after it takes effect and I shall correct the notice to clarify the position under powers in s176(1)(a) of the Act.
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Main Issue and Reasons

4. The main issue is the effect of the shop front on the character and appearance of the surrounding street scene and the Bishops Stortford Conservation Area (CA). As the appeal premises are within the CA a duty exists, when considering the grant of planning permission, to pay special attention to the desirability of preserving or enhancing its character or appearance.
5. 3 Northgate End is a two-storey mid-terraced property in the CA, to the north of the main shopping centre of the town. The upper frontage has traditional style sash hung windows with vertical and horizontal glazing bars.
6. There is a variety of shop front designs and materials used in the CA. However several of the shops in the vicinity have traditional shopfronts with stall-risers and pilasters or masonry around the windows. These make a positive contribution to the character and appearance of the CA.
7. No 5 has full height glazing, however it has several brick pilasters that project from the wall. These continue the design of the upper part of the façade and give the front an attractive appearance, ensuring that the glazing sits comfortably within the frontage.
8. The restaurant at No 7 and the cake decorators at No 7a have low stall risers and consequently the glazing in the frontages is nearly full height. However the expanse of glazing is not prominent at the restaurant because there are classical style columns in front with low railings in between and ornamental miniature bushes in the recessed area. No 7a has a recessed doorway such that the shopfront glazing wraps around one side and there are transom lights whose smaller panes of glass reflect the appearance of openings in the upper parts of the building's front elevation.
9. Furthermore the plinths are of a fairly uniform appearance in all three adjacent properties. By contrast the unauthorised shopfront at No 3 has no stall riser or plinths and comprises a large and unattractive steel and glazed frontage with an excessively tall fascia. This design is at odds with the host property and surrounding shopfronts. The "white flanking piers" on the appeal premises are insubstantial and in my view do not successfully frame the shopfront as supporting columns. This is because they lack any real articulation, in contrast to the brick and rendered piers of adjacent premises. The resulting expanse of metal and glass, taken with the top heavy fascia, is unsightly.
10. I have considered the examples provided of shop fronts in the wider area. Whilst they display a wide range of materials, colours and effects I disagree that they necessarily enhance the CA. Overall the units present an interesting and diverse street scene; however some detract from the distinctive traditional design of many of the shopfronts in the locality, through ill-coordinated fascias that have a harmful influence on the quality of the host buildings.
11. In any event, in the context of the immediate street scene, although the shop fronts at Nos 5, 7 and 7A differ in terms of size and proportions, they are generally sympathetic to their host buildings whilst retaining stall risers and plinths that contribute to the overall harmony of their appearance in the immediate environment.
12. Therefore I find that the shopfront by reason of its metal and glazed design that lacks stall risers and incorporates an excessively large fascia, is visually

incompatible with the host building, the surrounding street scene and the character and appearance of the CA.

13. The harm caused is contrary to Policies ENV1 and BH14 of the East Herts Local Plan Second Review 2007 which require development to be designed to a high standard to reflect local distinctiveness, and to be sympathetic to the scale, proportions, character, and materials of the structure, adjoining buildings, and the street scene. The shop front would also fail to comply with the National Planning Policy Framework (Framework), in particular Paragraph 17 which seeks to secure in all development a high quality design.
14. Considerable importance and weight is given to the desirability of preserving the character and appearance of a conservation area which is a designated heritage asset. The harm caused would be serious although given that it would affect a small part of the CA, it would cause less than substantial harm to its special interest and significance. As such paragraph 134 of the Framework requires the harm to be weighed against public benefits of the proposal; however there are none put forward that would outweigh the harm caused. Accordingly the appeal fails on ground (a).

Conclusion on Appeal A

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

Appeal B

16. The proposal is described as a new shop front with roller shutter but it is clear from the information supplied including the submitted plans that the application is for an externally illuminated fascia sign already in place. I have decided the appeal on the submitted information and what I have seen on my site visit.
17. The premises are in the Bishops Stortford Conservation Area (CA). Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires that special attention shall be paid to the desirability of preserving or enhancing the character or appearance of the CA, a duty that applies in advertisement appeals in so far as it relates to considerations of amenity.
18. As set out in the 2007 Regulations, the issues of amenity and public safety are the determining factors in advertisement appeals. The Council has no objection to the sign on the grounds of public safety.
19. Development Plan policies are not determinative of the appeal; however I have had particular regard to Policy BH15 of the East Herts Local Plan Second Review 2007. This policy requires advertisements in conservation areas, other than exceptionally, to be of an appropriate size necessary to convey their message, and of appropriate size and design in relation to the building or fascia. Any illumination should be discreetly sized and of a minimum level.
20. The Council deems the size of the lettering as appropriate to convey its message and regards as satisfactory the proposal to illuminate the sign by an external trough across the width of the fascia. I see no reason to disagree.
21. However from the submitted plans and what I have seen and read, the overall proportions of the new fascia would adversely affect the visual amenity of the

area. The depth of the sign is unsympathetic to those of adjacent premises and as such would obtrude into the street scene, causing harm to this part of the CA.

22. There is a wide variety of signage in the CA in terms of size of lettering, fascias, and colours and materials used. Although this variety can excite interest in the area I disagree that it necessarily enhances the CA, since some of the signage I saw is not well coordinated and detracts from the appearance of the locality. In this connection the examples of other consented advertisements in the area are noted but they do not provide a compelling reason to grant consent in this appeal.
23. I recognise that the fascia signs at Nos 5 and 7 are not fully horizontally aligned, however this does not overcome the harm to visual amenity caused by the excessive height of the proposed advertisement in relation to other signs in the immediate surroundings.
24. As a result the display of the advertisement would be detrimental to the interests of amenity.

Formal Decisions

Appeal A

25. It is directed that the enforcement notice be corrected by inserting after "Months" the wording "after this notice takes effect". Subject to this correction the appeal is dismissed and the enforcement notice is upheld. Planning permission is refused on the application deemed to have been made under s177(5) of the 1990 Act as amended.

Appeal B

26. The appeal is dismissed.

Grahame Kean

INSPECTOR