

Appeal Decision

Site visit made on 12 November 2019

by **P N Jarratt BA DipTP MRTPI**

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

Decision date 28 November 2019

Appeal Ref: **APP/A5270/C/19/3223876** **5-6 Hanger Green, Ealing, London, W5 3EL**

- 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 Ms Lily Sherafat against an enforcement notice issued by the Council of the London Borough of Ealing.
- The enforcement notice, numbered EN170089OD(1), was issued on 31 January 2019.
- The breach of planning control as alleged in the notice is the erection of a timber decked area and balustrade to the front of premises, the erection of a single storey rear extension, the installation of a rear extract flue and external alterations to the shop front involving the installation of bi-folding doors and retractable canopies.
- The requirements of the notice are:
 - A) Remove the timber decked area and balustrade from the front of no. 5-6;
 - B) Remove the single storey rear extension and rear extract flue in their entirety;
 - C) Restore the rear elevation of no. 5-6 to its condition prior to the breach occurring, which consisted of three door openings and a small window. This condition is reflected in the photos and drawing number A103 (Pre-Existing section A-A, Rear Elevation and Photos) and drawing number A101 (Pre-existing ground floor plan) of refused planning application 173953FUL, attached to the notice;
 - D) Remove the bi-folding doors and oak frame from the front elevation of no. 6;
 - E) Remove the retractable canopies from the front elevation of no. 5-6;
 - F) Restore the shopfront at no. 6 to its condition prior to the breach occurring, which consisted of a stallriser, large window and a recessed inward opening door. This condition is reflected in the photo and drawing no. A102 (Pre-existing front elevation) and drawing no. A101 (Pre-existing ground floor plan) of refused planning application 173953FUL, attached to the notice;
 - G) Repair any damage to the property caused by compliance with steps A, B, C, D and E;
 - H) Remove all resultant debris.
- The period for compliance with the requirements is six months.
- 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.

Decision

1. It is directed that the enforcement notice be corrected by the deletion of 'No 6' in requirements (D) and (F) and their replacement with 'No 5' and subject to this correction the appeal is allowed insofar as it relates to the shopfront of No 5 and the retractable canopies of Nos 5-6, and planning permission is granted on the application deemed to have been made under section 177(5) of the 1990 Act as amended, for the shopfront of No 5 and the retractable canopies of Nos 5-6 subject to the following condition:

- i) The black painted colour of the bi-folding doors shall be maintained in that colour unless otherwise agreed in writing by the local planning authority.
2. The appeal is dismissed and the enforcement notice is upheld as corrected for the erection of a timber decked area and balustrade to the front of premises, the erection of a single storey rear extension and the installation of a rear extract flue, and planning permission is refused in respect of the erection of a timber decked area and balustrade to the front of premises, the erection of a single storey rear extension, the installation of a rear extract flue on the application deemed to have been made under section 177(5) of the 1990 Act as amended.

Procedural Matter

3. Although the appellant has not made any reference to the accuracy of the requirements of the notice, it is evident that there are inaccuracies in the identification of the relevant part of the appeal property. Requirement D relates to the removal of the bi-folding doors and oak frame from the front elevation of No 6, and requirement F relates to the restoration of the shopfront at No 6 to its condition prior to the breach taking place. On the basis of the plans that the Council attached to the notice, requirements D and F should have referred to No 5 Hanger Green, which is the left hand part of the premises referred to as 5-6 Hanger Green. I am satisfied that the appellant would not suffer any injustice if I correct the requirements of the notice to reflect the correct part of the appeal building.

The appeal site and relevant planning history

4. The appeal property is a shop/cafe on the ground floor of part of a Grade II listed 3 storey building in a parade of shops with residential units on the upper floors. The listing covers Park Royal LRT station and adjoining shops as well as 1-6 Station Chambers and 1-11 Hanger Green. It was first listed in 1987. The property is within the Hanger Hill (Haymills Estate) Conservation Area which is characterised by its early to mid C20th layout and speculative housing development of varying house types.
5. Applications for retrospective planning permission and listed building consent for the unauthorised works were refused in June 2017.
6. Further retrospective applications were refused in September 2017 (173953FUL and 173954LBC).

The appeal on ground (a)

7. The main issues are the effect of the works on the character and appearance of the listed building and on the wider conservation area at both the front and the rear of the property.

Works to the front of the property

8. The previously existing shopfront to No 5 was a large glazed area over a low stallriser with a slightly setback entrance door on the right hand side. It has been replaced with bi-folding doors which have been painted black since the notice was served. No 6 has a more traditional shopfront with a central setback door.

9. Nos 5 and 6 Hanger Green had been separate units with No 5 being a fish bar and No 6 trading as 'Road and Racengear'. More recently, the units have been operating as a café in No 5 and a shop in No 6 with both parts interconnected through an opening between them. Paolo's at No 7 is a restaurant with a rather clumsy looking white painted shopfront with narrow arched windows. Bar 8 at No 8 was behind shutters so the shopfront was not visible at my site inspection. A restaurant at No 9 also has a non-traditional shopfront. In moving further on along the parade of shops, their distinctive characteristic is that of variety of shopfront designs, materials and colours.
10. A number of the shop premises exhibited canopies and I note that No 5 is shown to have a green canopy in the drawing of the existing front elevation 2015 attached to the notice.
11. The timber decked area and balustrade to the front of Nos 5-6 is distinctive and the brown colour of the balustrade contrasts with the black shopfront. Paolo's restaurant adjacent has created a 'private' area on the footway through the erection of fencing panels and planters, although this looks crude compared to the decking at the appeal property.
12. In considering the effects of these works it is necessary to consider whether they have led to any harm to the significance of a designated heritage asset. The listing description describes the building (which predominantly relates to the circular booking hall and square tower) to include the 3-storey parade of shops with flats over, with shops separated by ceramic clad piers and plate glass windows. The ceramic clad piers are unaffected by the works although the retractable canopies are partly affixed to the piers. Although the description does not indicate the size of the plate glass windows, it is evident that there have been considerable changes to the various shopfronts since the listing but they have little effect on the significance of the listed building or the character and appearance of the conservation area. Any harm caused is less than substantial and I consider that the variety of shopfronts is commensurate with the retail function of the parade of shops and adds to vibrancy and interest which represents a public benefit.
13. The timber decking and balustrade is incongruous and appears more intrusive when contrasted with the sitting area of the adjacent property at No 7 which utilises the pavement for seating. It affects the setting of the listed building and harms the character and appearance of the conservation area.

Works to the rear of the property

14. A stepped rear flat-roofed extension clad in black tiles has been constructed at the rear of the appeal property in a small yard area. It provides office space and cold storage. It is a poorly designed and ugly building which is out of scale with the appeal property through its bulk and height, and incongruous due to the materials employed. Although the extension is at the rear of the parade of shops having a clear servicing function it is highly visible from the access decks serving the residential properties above the shops. Having said that, the whole of the rear of the listed building has had many additions and alterations to serve the retail function which in themselves are cumulatively harmful to the setting of the listed building. The flue is visible and substantial in size, located close to the access deck. Whilst the Council has indicated that the principle of a rear extension and flue is accepted, what has been erected is not.

15. The appeal on ground (a) succeeds to a limited extent in respect of the canopies and the bi-folding doors but fails in respect of the remaining unauthorised works.

The appeal on ground (f)

16. The appellant has indicated a willingness to carry out various steps if considered necessary which would enable the retention of the majority of the works.
- i) Removal of the decking;
 - ii) Painting of the bi-folding doors black to match the adjacent original shopfront;
 - iii) Cladding of the rear extension in brick slips to match the colour of the existing building;
 - iv) Reconfiguring the flue extract so that it terminates towards the rear of the built ground floor extension
 - v) Reduction in the height of the rear extension such that it has a uniform and lower height.
17. I agree that the lesser steps described in i) and ii) above would reduce the degree of harm to the front of the building and I have had regard to this in the appeal on ground (a).
18. However, in respect of iii), iv) and v), there is insufficient information in terms of specifications and drawings to establish whether the proposed changes would remedy the harm caused by the works and whether any conditions would be appropriate in respect of controlling the flue.
19. The purpose of the requirements of a notice is to remedy the breach by discontinuing any use of the land or by restoring the land to its condition before the breach took place or to remedy an injury to amenity which has been caused by the breach. It is necessary for the requirements to match the matters alleged and therefore I consider that the requirements of the notice in this case do not exceed what is necessary to remedy the breach. The requirements do not preclude the appellants doing what they are lawfully entitled to do in the future once the notice has been complied with.
20. The appeal on his ground fails.

Conclusion

21. For the reasons given above I conclude that the appeal should succeed in part only, and I will grant planning permission for one part of the matter the subject of the enforcement notice, but otherwise I will uphold the notice with corrections and refuse to grant planning permission on the other part. The requirements of the upheld notice will cease to have effect so far as inconsistent with the permission which I will grant by virtue of s180 of the Act.

P N Jarratt

Inspector