
Appeals Decisions

Site visit made on 21 January 2020

by D A Hainsworth LL.B(Hons) FRSA Solicitor

an Inspector appointed by the Secretary of State

Decision date: 20th February 2020

Appeal A: Ref: APP/X5210/C/19/3221268

Appeal B: Ref: APP/X5210/C/19/3221184

82 Camden High Street, London NW1 0LT

- Appeal A is made by Emre Kubilay. Appeal B is made by Redcourt Limited. Both appeals are made under section 174 of the Town and Country Planning Act 1990 against an enforcement notice (ref: EN18/0327) issued by the Council of the London Borough of Camden on 19 December 2018.
- The breach of planning control alleged in the notice is "the installation of a recessed shopfront with bi-folding doors".
- The requirements of the notice are as follows: -
 - "1) Remove the recessed shopfront and bi-folding doors and make good on any damage caused; and
 - 2) Reinstall a shopfront to replicate the design, position and opening method of the previous shopfront as shown on drawing A101 (Pre-existing plan and front elevation) See Appendix 1".
- The period for compliance with these requirements is three months.
- Appeal A is proceeding on the grounds set out in section 174(2)(a) and (f). Appeal B is proceeding on the grounds set out in section 174(2)(e), (f) and (g). Since Appeal A includes ground (a), an application for planning permission is deemed to have been made by section 177(5) in respect of the matters stated in the notice as constituting a breach of planning control.

Appeal B: application for costs

1. The appellants' application for costs against the Council is dealt with by a separate decision.

Appeals decisions

Appeal A: Ref: APP/X5210/C/19/3221268

2. The appeal is allowed on ground (a), the enforcement notice is quashed and planning permission is granted on the application deemed to be made by section 177(5) of the Town and Country Planning Act 1990 for the installation of a recessed shopfront with bi-folding doors at 82 Camden High Street, London NW1 0LT.
3. The appeal made on ground (f) no longer falls to be considered.

Appeal B: Ref: APP/X5210/C/19/3221184

4. The appeal made on ground (e) is dismissed.
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5. The appeal made on ground (f) and the appeal made on ground (g) no longer fall to be considered.

Reasons for the appeal decisions

Appeal B: ground (e) and the validity of the enforcement notice

6. Section 172(2) requires a copy of the enforcement notice to be served on the owner and occupier of the land to which the notice relates and on any other person having an interest in the land, being an interest which, in the opinion of the Council, is materially affected by the notice. In the present case, the Council's list of persons served shows that this requirement has been complied with. The appellants were served as the owners of the freehold of the land.
7. Section 173 requires an enforcement notice to state the matters which appear to the Council to constitute the breach of planning control and to specify the steps which are to be taken. These steps may include the restoration of a building to its condition before the breach took place. The notice must also specify the precise boundaries of the land to which it relates, whether by reference to a plan or otherwise.
8. These requirements have been met in the present case, since the notice states what is the breach, specifies the steps to be taken and identifies the land by its address and by reference to the plan attached to the notice. It was the intention of the Council to attach to the notice a copy of the drawing A101 referred to in Requirement 2, but the Appendix 1 was omitted in error. No-one can, however, be in any doubt that the notice requires elements of the shopfront to be restored to their previous condition as shown on the drawing referred to. The drawing is readily available and it is not essential to attach a copy of it to the notice.
9. The appeal on ground (e) and the challenge to the validity of the notice have both failed.

Appeal A: ground (a)

10. The main issue in deciding whether planning permission should be granted concerns the effect the shopfront has on the street scene and the Camden Town Conservation Area.
11. In reaching my conclusions on ground (a), I have paid special attention to the desirability of preserving or enhancing the character or appearance of the conservation area. The Conservation Area Appraisal and Management Strategy identifies this part of Camden High Street as a commercial area with single-storey shops occupying what were originally front gardens. The document notes that shopfronts here "have been replaced or altered periodically, resulting in little uniformity". It states that "many more recently constructed shopfronts contribute to the eclectic and often distinctive character of the area". However, the shopfront shown on the drawing referred to in the notice did not do this. It had no historic or conservation significance. The original pilasters had been retained, however, as they have been in the new shop front.
12. The basis of the Council's opposition to the new shop front is that it creates "a void in the streetscene" that disrupts "the flow and appearance of the street and Conservation Area" and that "A recessed shopfront with bi-folding doors is

not part of the character of this part of Camden High Street". The Council also point to the advice in Camden Planning Guidance Design CPG1, which states:

"Folding shopfronts are not generally acceptable, particularly those on historic buildings such as listed buildings and those in Conservation Areas. When open, they erode the appearance of the shopfront, creating a visual void, and can increase disturbance to neighbouring properties, particularly in the case of food and drink premises. When closed they appear as a row of doors rather than a shopfront. This creates a heavier appearance than a shopfront mullion and reduces the area of glass in the shopfront."

13. As a result, the Council maintain that the new shop front is contrary to Policies D1, D2 and D3 of the Camden Local Plan. Policy D1 deals with the design of development and sets out a list of criteria, which include the protection of heritage assets and the street frontage. Policy D2 contains measures for the preservation of conservation areas. Policy D3 deals with shopfronts; it indicates that a high standard of design will be expected in new shopfronts and lists the matters that will be considered. These matters include: the design of the shopfront, including its details and materials; the character, architectural and historic merit and design of the building and its shopfront; the relationship between the shopfront and the upper floors of the building and surrounding properties; and the general characteristics of shopfronts in the area. I have taken all these matters into account.
14. My assessment of the new shopfront differs very much from that of the Council. I do not consider that, when open, the shopfront creates "a void in the streetscene": instead, it appears as an invitation to enter and make use of the facilities on offer, and it therefore makes a contribution to the vitality of the commercial frontage. When closed, the shopfront does not "appear as a row of doors": its design, and the materials used, are high-quality and appropriate to their setting within the street and the conservation area. This is a busy commercial frontage with many food and drink outlets and the nearest residents would not in my opinion experience a loss of amenity when the doors were open.
15. I agree with the Council that a recessed shopfront with bi-folding doors is not part of the character of this part of Camden High Street but, as the Conservation Area Appraisal and Management Strategy points out, shopfronts here have been replaced or altered periodically, resulting in little uniformity. In my view, the new shopfront should be treated as another shopfront that contributes to "the eclectic and often distinctive character" of the conservation area and the street scene. As such, it makes a positive contribution to the character and appearance of the conservation area and the street scene, and is not in conflict with Policies D1, D2 and D3 of the Local Plan.
16. For the reasons set out above, Appeal A has succeeded on ground (a) and planning permission has been granted for the new shopfront. It has not been suggested that any planning conditions should be imposed in this event and I do not consider that any are needed.

Appeal A: ground (f) and Appeal B: grounds (f) & (g)

17. Since Appeal A has succeeded on ground (a), planning permission has been granted and the enforcement notice has been quashed. Grounds (f) and (g) therefore no longer fall to be considered.

D.A.Hainsworth

INSPECTOR