

Appeal Decision

Site visit made on 11 March 2020

by D A Hainsworth LL.B(Hons) FRSA Solicitor
an Inspector appointed by the Secretary of State

Decision date: 31st March 2020

Appeal Ref: APP/U5360/C/19/3236054
102 Northwold Road, Hackney, London E5 8RL

- The appeal is made by A1 Fresh Foods Ltd under section 174 of the Town and Country Planning Act 1990 against an enforcement notice (ref: 2018/0427/ENF) issued by the Council of the London Borough of Hackney on 25 July 2019.
 - The breach of planning control alleged in the notice is "the erection of a front and side extension at ground floor level consisting of a flat roof canopy and roller shutters with accompanying framing".
 - The requirements of the notice are as follows: -
 - "(1) Remove the roofing, framing structure and roller shutters located on the forecourt of the shopfront.
 - (2) Remove all shelving, food counters and goods storage located on the forecourt
 - (3) Make good all damage to the Property resulting from the removal of the unauthorised works and restore the relevant parts of the property to the condition they were before the unauthorised extensions were constructed
 - (4) Remove all waste, materials, equipment, and debris from the Property resulting from compliance with the requirements in paragraphs 5(1) to (3) of this notice."
 - The period for compliance with these requirements is three months
 - The appeal is proceeding on the grounds set out in section 174(2)(a) and (g). Since there is an appeal on 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.
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Decision

1. The appeal is allowed, 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 erection of a ground-floor front and side extension at 102 Northwold Road, Hackney, London E5 8RL consisting of a flat-roof canopy and roller shutters with accompanying framing.

Reasons for the decision

The enforcement notice

2. As the appellants have pointed out, Requirement (2) of the enforcement notice is excessive. In the first place, the items required to be removed are not alleged by the notice to be a breach of planning control; secondly, the use of a shop forecourt in the usual way for the display of goods for sale is normally considered to be part of the authorised use of the premises as a shop.
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Ground (a)

3. The main issues in deciding whether planning permission should be granted for the extension works relate to (a) their impact on the character and appearance of the shop and the street scene and (b) the retail and business case for their retention.
4. The shop is at the eastern end of a parade of nine commercial units which are in a predominantly residential area. It sells convenience goods and at the time of my visit it was busy with customers.
5. The appellants have pointed out that businesses 'struggle to stay open' in this parade. When I visited, only three of the nine units were open - their own, a hairdresser's in the middle of the parade and a greengrocer's at the opposite end (which likewise displays goods for sale on its forecourt under a fixed canopy). All the others were closed and shuttered.
6. The Council's representations focus entirely on the design and appearance of the appellants' extension works. The Council have drawn attention to the policies in the London Plan, the Hackney Core Strategy and the Hackney Development Management Local Plan that relate to these matters. Nowhere in their representations, however, have the Council referred to the policies in these documents which are supportive of small corner shops like this one that sell convenience goods to local customers.
7. I do not agree with the officer's report, which states that the shop has a historic shopfront. The Street View image of 2012 supplied by the Council shows the shopfront that existed when the shop was a closed and shuttered electrical outlet. Its overall appearance was unappealing; the pilasters, which are still present, are mediocre examples and there are no other features that could realistically be described as historic.
8. The extension works obviously have a rudimentary appearance, consistent with their function. There are many such examples outside small shops, including the one at the other end of this frontage, and they are on the whole not considered to be unduly detrimental to the appearance of the shop or the street scene. It is hard to see how any extension works of this kind here would comply with the high-quality design standards referred to in the policies, which are applicable to all types of development.
9. The rigorous application of these policies in this instance would probably mean that no extension works of this type would be allowed here at all. This would be unfortunate, because the appellants' shop appears to be trading successfully, in contrast to most of the rest of the parade, after they took on a new lease and carried out the extension works. Their business provides an important local convenience shop that other policies indicate should be supported. It also helps to preserve what is left of the vitality and viability of this parade, which in its present state detracts from the appearance of its surroundings and which is likely to decline further if the remaining businesses are not supported when the opportunity arises.
10. I have therefore decided that, on balance, planning permission should be granted for the extension works. It has not been suggested that any planning

conditions should be imposed in this event and I do not consider that any are needed. The appeal has therefore succeeded on ground (a).

Ground (g)

11. As a result of the success of the appeal on ground (a), the enforcement notice has been quashed. Ground (g) no longer falls to be considered.

D.A.Hainsworth

INSPECTOR