



Appeal Decision

Site visit made on 17 June 2020

by K Stephens BSc (Hons), MTP, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 10 July 2020.

Appeal Ref: APP/M3455/C/19/3236284

Land at 69 Weston Road, Weston Coyney, Stoke-on-Trent ST3 6AB

- 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 Mrs Michelle Swift (of Swiftys Microbar) against an enforcement notice issued by Stoke-on-Trent Council.
 - The enforcement notice was issued on 2 August 2019.
 - The breach of planning control as alleged in the notice is *without planning permission the installation of external security roller shutters to the front and side entrance*.
 - The requirements of the notice are:
 - a) Remove from the land the external security roller shutters, boxes and associated guides from the front and side elevation of the property at 69 Weston Road, Weston Coyney, Stoke-on-Trent ST3 6AB.
 - b) Make good any damage to the property frontage caused by compliance with requirement 1 above.
 - The period for compliance with the requirements is 3 months.
 - The appeal is proceeding on the grounds set out in section 174(2)(f) of the Town and Country Planning Act 1990 as amended. Since the prescribed fees have not been paid within the specified period, the appeal on ground (a) and the application for planning permission deemed to have been made under section 177(5) of the Act as amended have lapsed.
-

Decision

1. The appeal is dismissed on ground (f) and it is directed that the enforcement notice be varied by:

- *deletion* of the words 'requirement 1' and *substitution* with the words 'requirement a)'

Subject to these variations the enforcement notice is upheld.

Appeal on ground (f)

2. The appeal on ground (f) is that the requirements of the notice exceed what is necessary. When an appeal is made on ground (f) it is essential to understand what the Council is seeking to achieve and hence the purpose of the notice. Section 173(4) provides that the purpose of the notice shall be to remedy the breach of planning control, or to remedy any injury to amenity.
3. In this case, the steps required to be taken are to remove the external security roller shutters, boxes and associated guides from the front and side elevation of the property, and make good any damage caused by their removal. The purpose of the notice is therefore to remedy the breach of planning control by

restoring the property to its state before the breach took place. The requirements do that.

4. That being the case, for an appeal on ground (f) the appellant must show that the requirements of the notice are excessive to remedy the breach and that lesser steps would achieve the same end.
5. The appellant proposes that the security shutters should remain. She considers the shutters do not have a negative visual impact on the high street as they are in good condition, automated, and of a better design than some others on the high street. She also describes how the Microbar business has had a positive effect on the local community and that she is only securing her business against potential crime. I saw on my site visit that a number of other premises along the road had security shutters.
6. Retaining the shutters is not a 'lesser step' as it would not remove them. Hence the appellant's proposition would not achieve the same end and therefore would not remedy the breach. Consequently, it cannot be argued that the requirements of the notice are excessive in order to remedy the breach. Therefore, the ground (f) appeal must fail.
7. I acknowledge the appellant's reasons for wanting to keep the shutters. But the planning merits of keeping the shutters cannot be considered as the appeal against ground (a) – that planning permission ought to be granted for the matters alleged in the notice – has lapsed as no fee was paid.

The Notice

8. In section 5 of the enforcement notice, requirement b) refers to making good any damage caused by compliance with "requirement 1 above". This appears to be a typographical error as there is no requirement 1. I shall vary the notice and delete the words 'requirement 1' and substitute with 'requirement a)'.

Conclusion

9. For the reasons given above I conclude that the requirements of the enforcement notice are not excessive. I am varying requirement b) of the enforcement notice prior to upholding it.

K Stephens
INSPECTOR