



Appeal Decision

Site visit made on 27 July 2021

by L Perkins BSc (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 22 September 2021

Appeal Ref: APP/X5990/C/20/3263569

5 Newport Place, London WC2H 7JN

- 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 John Leung against an enforcement notice issued by City of Westminster Council.
 - The enforcement notice was issued on 20 October 2020.
 - The breach of planning control as alleged in the notice is: Without the requisite planning permission and within the last 4 years the unauthorised alterations to the shop frontage including the installation of a solid roller shutter, removal of shopfront and the insertion of a service hatch and the installation of four light fittings.
 - The requirements of the notice are:
 1. Remove the goods for sale hanging either side of the shopfront.
 2. Remove the unauthorised solid roller shutter and associated box housing and running tracks from the front elevation of the property as outlined in yellow in Photo B and B2.
 3. Remove all four of the unauthorised lights and associated fixtures and fittings mounted under the canopy, as outlined in yellow, in Photo A2 and A3.
 4. Permanently remove the moveable step below the serving hatch as shown outlined in yellow in Photo B3.
 5. Remove the unauthorised serving hatch from the front elevation of the Property and restore the shopfront to its previous lawful condition as shown in Photo A.
 6. On completion of Steps 1 – 4, remove all resultant debris from the land.
 - The period for compliance with the requirements is 6 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. Since an appeal has been brought on ground (a), an application for planning permission is deemed to have been made under section 177(5) of the Act.
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Decision

1. The appeal is dismissed, the enforcement notice is upheld and planning permission is refused on the application deemed to have been made under section 177(5) of the 1990 Act as amended.

Preliminary Matters

2. Since the notice was issued the revised National Planning Policy Framework (the Framework) came into force, replacing a previous version of the Framework. In addition, a new version of the London Plan has been published and so the London Plan policies published in 2016, referred to in the notice, have been superseded by those in the London Plan 2021. Also since the notice was issued, the Unitary Development Plan 2007 and City Plan 2016 have been superseded, by the adoption of the City Plan 2019-2040, in April 2021.

3. Both main parties were given an opportunity to comment on any relevant implications of the above for this appeal and any relevant comments received have been taken into account in my reasoning.

Reasons

4. The main issue for the ground (a) appeal is the effect of the appeal development on the character and appearance of the area, including the Chinatown Conservation Area in which the site is situated.
5. The appeal site contains a 4 storey building within a terrace, on one side of a busy courtyard which connects a network of vibrant narrow streets and alleyways. As with all the other units in this terrace, the ground floor is occupied by a commercial unit with a shop frontage. In my view, this is a fundamental part of the character and appearance of the area.
6. From the information available, at ground floor level the appeal building had a glazed bay above a stallriser on its left side and 2 entrance doors above entrance steps on its right side. As a result of the appeal development, the glazed bay and entrance doors have been removed to accommodate a service hatch (above a removable customer step) to the left side, leaving an open void to the right side. When the commercial unit is closed it is secured by means of a solid roller shutter which fills the aperture where the former shopfront was installed.
7. As a result of the appeal development, the appeal building has an uncharacteristic open frontage when open for business and, as a result of the roller shutter, a solid dead frontage when closed. This harms the character and appearance of the area and results in an uncharacteristic fortress-like effect.
8. The harmful effect is exacerbated by the addition of clutter to the front of the building at ground floor level. This includes the hanging of goods either side of where the shopfront was, the box housing for the roller shutter, the attachment of lights below the fascia board and the addition of the customer step below the service hatch. This arrangement does not reflect that seen on any other units within the group and so is incongruous in this context.
9. Given the size and scale of the appeal development within the context of the conservation area as a whole, I consider the appeal development causes less than substantial harm to this designated heritage asset. Nevertheless, any harm to its significance should require clear and convincing justification and in accordance with paragraph 202 of the Framework, I must weigh the harm against the public benefits of the appeal development.
10. The appellant has said that the sale of goods outdoors is to cope with the restriction on indoor activities as a result of the Covid-19 pandemic. However, restrictions have since been lifted and I do not consider this is a public benefit of sufficient weight to warrant a grant of planning permission for the appeal development.
11. I conclude that the appeal development harms the character and appearance of the area. In respect of this main issue, this does not comply with Policies 7, 38, 39 or 40 of the City Plan 2021, Policies D3 and HC1 of the London Plan 2021, the Shopfronts, Blinds and Signs Supplementary Planning Guidance 1990, the Design Guidelines for Shopfront Security Supplementary Planning Document 1994 or the heritage and design policies of the Framework.

12. Considering all of the above points the appeal on ground (a) fails.

Conclusion

13. For the reasons given above, I conclude that the appeal should not succeed. I shall uphold the enforcement notice and refuse to grant planning permission on the application deemed to have been made under section 177(5) of the 1990 Act as amended.

L Perkins

INSPECTOR