



Appeal Decision

Site visit made on 7 February 2022

by Elizabeth Pleasant BSc(Hons), DipTP, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 17 February 2022

Appeal Ref: APP/G2713/C/21/3284198

Land and premises on the ground floor at 97-99 Long Street, Easingwold, North Yorkshire YO61 3HY

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended. The appeal is made by Food Station against an enforcement notice issued by Hambleton District Council.
- The notice was issued on 24 August 2021.
- The breach of planning control as alleged in the notice is: Without planning permission, the installation of security lights to the front elevation of the premises.
- The requirements of the notice are: Remove the security lights from the front elevation of the premises.
- The period for compliance with the requirement is one month.
- The appeal is proceeding on the grounds set out in section 174(2)(a), (f) and (g) 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.

Summary of Decision: the appeal is allowed, the enforcement notice is quashed, and planning permission is granted in the terms set out below in the Formal Decision.

Appeal on ground (a), deemed planning application

Main Issues

1. The main issue in this case is the effect on the character and appearance of Easingwold Conservation Area.

Reasons

2. The appeal property is a substantial two-storey brick property constructed beneath a hipped roof. It fronts directly onto the pavement, with a shop frontage at ground floor level where a takeaway business operates, and residential accommodation above. The first floor retains its traditional timber sash windows. The property is situated within Easingwold Conservation Area (CA).
3. From the evidence before me, including the Easingwold Conservation Area Appraisal, adopted 2010 and my observations on my site visit, the significance of the CA as a heritage asset within the Long Street Character Area is mainly derived from its historic development as a new alignment for the improvement of the Turnpike from Northallerton to York. This route remains a principle means of access to the town. The mix of residential and commercial properties, many of which differ in their size, age and scale, but with a consistent palette of materials, including the former Coaching Inns, all

contribute to the character of the area. The character is appreciated through the long views available on this generally straight section of street.

4. The appeal property has a large shop frontage, traditional timber sash windows and brick and stone detailing. Taken together with the elements of symmetry in its overall design, the property makes a positive contribution to the character and appearance of the street and CA.
5. It appears that the Council do not object to the design and detailing of the security lights that have been installed, but are concerned that their luminance during hours of darkness, has a harmful effect on the character and appearance of the CA, particular detracting from the general ambience of the street during the dark evenings.
6. Six small black spot lamps have been installed along the top of the shop fascia. They are evenly spaced, and when they are not lit in the daytime, they appear as discrete additions to the shop front. However, it is clear from the photographs provided by the Council in their Statement of Case that when lit, they generate an intensity of white light which is significant and draws the eye. This effect is compounded due to the scale of the shop frontage which has a large display window and adds to the amount of light emanating from the appeal premises. The extent of harsh white light in an otherwise dimly lit street has a harmful effect on the character and appearance of the CA.
7. I appreciate that Long Street is characterised by a mix of uses, and I saw on my site visit that a number of commercial premises also had external lighting. However, from the evidence before me none of those other lights are as bright and intrusive as those the subject of this appeal.
8. However, the National Planning Policy Framework (the Framework) and Planning Practice Guidance¹ advise that when used properly, conditions can enhance the quality of development and enable development to proceed where it would otherwise have been necessary to refuse planning permission, by mitigating the adverse effects. In this case the Council has suggested a condition which would require the appellant to submit and agree details of the lux levels, orientation, direction and screening of the lights. The condition would be reasonable and necessary to reduce the intensity of the unauthorised lights, which would in turn overcome the harm I have identified to the heritage asset.
9. I conclude that subject to a condition to control the luminance of the existing lights, the development would preserve the character and appearance of Easingwold Conservation Area. There would be no conflict with the development plan, and in particular with the design and heritage aims of Policies CP16 and DP28 of Hambleton Local Development Framework and the heritage aims of the Framework.

Conditions

10. The purpose of condition 1 is to require the appellant to comply with a strict timetable for dealing with the luminance of the lights, which needs to be addressed in order to make the development acceptable. The condition is drafted in this form because, unlike an application for planning permission for development yet to commence, in the case of a retrospective grant of

¹ Planning Practice Guidance Reference ID: 21a-001-20140306

permission it is not possible to use a negatively worded condition precedent to secure the subsequent approval and implementation of the outstanding matter because the development has already taken place. The condition therefore provides for the loss of the benefit of the grant of planning permission where the detailed matters in question are not submitted for approval during the time set by the conditions, approved (either by the local planning authority ("LPA") or by the Secretary of State on appeal), and then implemented in accordance with an approved timetable. Should the requirements of the condition not be met in line with the strict timetable, then the use would have to cease, and the dwelling would have to be removed.

Conclusion

11. For the reasons given above, I conclude that the appeal succeeds on ground (a). I shall grant planning permission for the development as described in the notice. The appeal on grounds (f) and (g) do not therefore fall to be considered.

Formal Decision

12. The appeal is allowed, the enforcement notice is quashed, 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 development already carried out, namely the installation of security lights to the front elevation of the premises at ground floor at 97-99 Long Street, Easingwold, North Yorkshire YO61 3HY as shown on the plan attached to the notice and subject to the following condition:

- 1) The security lights hereby permitted shall be removed from the premises within one month of the date of failure to meet any one of the requirements set out in i) to iv) below:
 - i) Within 2 months of the date of this decision, details of lighting, including lux levels, orientation, direction and screening of the lights shall be submitted to the Local Planning Authority for approval.
 - ii) If within 4 months of the date of this decision the local planning authority refuse to approve the details or fail to give a decision within the prescribed period, an appeal shall have been made to, and accepted as validly made by, the Secretary of State.
 - iii) If an appeal is made in pursuance of ii) above, that appeal shall have been finally determined and the submitted details shall have been approved by the Secretary of State.
 - iv) The approved lighting details shall have been carried out and completed within 2 months of the approval of details and shall be retained thereafter.

In the event of a legal challenge to this decision, or to a decision made pursuant to the procedure set out in this condition, the operation of the time limits specified in this condition will be suspended until that legal challenge has been finally determined.

Elizabeth Pleasant

INSPECTOR