



Appeal Decision

Site visit made on 1 February 2022

by Andy Harwood CMS MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 24 February 2022

Appeal Ref: APP/X5990/C/21/3282760

The buildings and associated land at 65-67 Moscow Road, London, W2 4JS

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended (the Act). The appeal is made by Mr Ali Al-Shrify against an enforcement notice issued by City of Westminster Council.
 - The notice was issued on 17 August 2021.
 - The breach of planning control as alleged in the notice is: Without the requisite planning permission and within the last 4 years the erection of a single storey extension to 67 Moscow Road and the installation of a new shopfront, alterations to the fascia board spanning 65-67 Moscow Road and the removal of the two corbel/console brackets framing the fascia board to 65-67 Moscow Road.
 - The requirements of the notice are to:
 - 1) Remove the single storey extension to the front of 67 Moscow Road including the shopfront and remove the fascia boards on both 65 and 67 Moscow Road as outlined in red in photograph Set A attached to this notice;
 - 2) Re-instate the timber-framed recessed shopfront with design, materials and proportions to match those shown in Photograph 'B' and Plan 1 attached to this notice including the reinstatement of the corbel/console brackets to 65 and 67 Moscow Road and reinstate a fascia board to 65-67 Moscow Road as identified on photograph B and plan ; and
 - 3) Repair any damage caused by the carrying out of requirements 1 and 2 of this Notice.
 - The period for compliance with the requirements is: within four months.
 - The appeal is proceeding on the ground set out in section 174(2)(c) of the Town and Country Planning Act 1990 as amended.
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Decision

1. The appeal is dismissed and the enforcement notice is upheld.

Preliminary Matters

2. Photographs showing the shopfront before the alleged unauthorised works took place, are appended to the notice. These include a red-outline of the extent of alterations that the notice relates to. This clearly demarcates the whole shop front on the right-hand side of the building (No 67) as well as the fascia that extends across the top and a part of the side wall of the left-hand unit (No 65). When I visited, I saw that there have been additional shopfront alterations to No 65 which are not covered by this notice.

The Appeal on ground (c)

3. The appeal on this ground is that what is alleged does not constitute a breach of planning control. The onus is upon the appellant to demonstrate their case. An appeal on ground (a) has not been pleaded, it is therefore not for me in this appeal to consider the planning merits of the alleged development.

4. The appellant's argument on this ground of appeal is that he has planning permission for the alterations to the shop-front. They do not dispute that these works required planning permission.
5. The alterations have included removal of the previous windows and the frames that held them as well as what look from the details provided as being some sort of louvered panels. These have been replaced by a 4-pane glazed frontage with a transom which bi-sects the windows horizontally together with small silver-coloured vents within the stall-riser and other vents above the door and at the top of one of the windows. Changes to the fascia across the 2 properties has included the removal of ornate corbel brackets from either end. These changes have materially affected the external appearance of the building and were therefore building operations under the provision of s55 of the Act, that required planning permission by reason of s57.
6. Planning permission has been given for 3 alternative schemes that would include changes to the front of the building. One was permitted in 2018 (ref 18/07619/FULL), another in 2019 (ref 18/10734/FULL) and a third in 2021 (ref 21/02177/FULL). However, although the last of these has also been the subject of a further submission (ref 21/06315/ADFULL) to discharge one of the planning conditions that required the agreement of further details, the development as alleged on the notice is materially different from each of those schemes. Furthermore, I do not consider that the form of what has been undertaken could be considered as a partial step towards implementing any of those schemes.
7. Planning permission is required for the work that was undertaken which does not comply with the schemes that have been approved. I cannot under this ground of appeal consider the merits of what has been implemented versus what existed previously or the previous planning permissions but they are unauthorised and therefore do constitute a breach of planning control. This does not prevent the implementation of a planning permission if it remains capable of implementation. That is a matter between the Council and the appellant.
8. The length of time that the Council took to deal with the planning applications, the need to keep the business operating and the national lockdown due to the Covid-19 pandemic, do not affect the consideration of this ground of appeal. I can understand that these circumstances have presented difficulties and that the work may have been intended to be temporary but nevertheless development requiring planning permission has been undertaken.
9. The appeal on ground (c) fails.

Conclusion

10. For the reasons given above, I conclude that the appeal should not succeed. I shall uphold the enforcement notice.

Andy Harwood

INSPECTOR