



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: 28 February 2022

Appeal Ref: APP/K5600/C/21/3282894

Land at 118 Kensington Park Road, London, W11 2PW

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended. The appeal is made by Mr Muhammad Shahzad against an enforcement notice issued by Royal Borough of Kensington and Chelsea.
 - The notice was issued on 4 August 2021.
 - The breach of planning control as alleged in the notice is without planning permission, alterations to shop front.
 - The requirements of the notice are:
 - i) Remove the unauthorised shopfront in full;
 - ii) Reinstate the shopfront to its form and condition before the unauthorised works were carried out as per approved drawing 2008/PL050608/03 A of planning permission ref: PP/08/01635 in timber, matching the image in Appendix A below; and
 - iii) Remove from the land any resulting debris.
 - The period for compliance with the requirements is: within six calendar months.
 - The appeal is proceeding on the grounds set out in section 174(2)(a), (f) of the Town and Country Planning Act 1990 as amended.
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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.

The Appeal on ground (a)

2. I have to consider whether planning permission should be given for what is alleged on the enforcement notice.

Main Issues

3. The main issue is the effect of the development on the character and appearance of the appeal site and surrounding area. As part of this main issue, I will pay special attention to the desirability of preserving or enhancing the character or appearance of the Ladbroke Conservation Area (CA).

Reasons

4. The appeal site is located close to the junction of Kensington Park Road with Westbourne Grove and Ladbroke Gardens. This is within a short parade of shops. There are a range of building styles along this part of Kensington Park Road including a large, modern residential block as well as other commercial premises. The broader CA includes buildings of varied appearance although long traditional terraces dominate the area, many with commercial retail premises at ground floor level.

5. There are some instances where contemporary shop-fronts have been installed. A nearby property includes a large area of glazing and very little in terms of traditional features. However, considering the CA as a whole, the contemporary appearance of those frontages does not prevail, has not respected the historic characteristics of the area in general and should not be used as examples to follow.
6. Prior to the alterations taking place, the photographs that have been provided show that the appeal premises had a very traditional appearance. The central door with small window over the transom above, was set back from 2 bay windows with low stall-risers on each side of the door with 2 rows of smaller glazed lights along the top. On either side of the frontage there were matching pairs of ornate corbels at fascia level. The previous frontage therefore had a simple but traditional charm including a strong symmetrical appearance. This in my view would have complemented the building overall including the upper floors which retain traditional horned, sash windows with simple mouldings which frame them and again a strong degree of symmetry. The previous shop-front was therefore significant with respects to the appearance of this building, this road frontage, at a transitional point between traditional and more modern properties as well as within the CA as a whole.
7. By contrast, the new shop-front has an asymmetrical appearance with the entrance on the left hand side of the large display window which takes up much of the elevation below fascia level. There has been a loss of traditional features such as the small lights and one of the ornate corbels. Although a short stall-riser is retained along the bottom of the large display window, in this context this does little to recreate any sense of tradition.
8. The development has therefore had a negative impact upon the townscape along this part of Kensington Park Road. This has not responded well to the context of the building, the architectural interest of the area and has not preserved elements of the shopfront that contributed to its traditional character.
9. In relation to the main issue, the development has had a detrimental effect upon the character and appearance of the appeal site and surrounding area which has not therefore preserved the character or appearance of the CA. The development does not therefore comply with Policies CL1, CL2, CL3, CL6 and CL10 and CL11 of The Royal Borough of Kensington and Chelsea, Local Plan adopted September 2019.

Other Matters

10. I recognise that there were some urgent works that needed to be undertaken to the shop-front. I am told and the appellant provided photographs to evidence some of the damage that has occurred to the property. However, this and the costs of repairing the previous structure can only have a small amount of weight in favour of what has been undertaken. The economic viability and practicalities of repairing the previous shop-front may have been very significant factor to the appellant but is of very limited public interest.
11. It is not clear how much the internal floor space of the premises has increased as a result of the development or the significance of this with respect to social distancing requirements during the Covid-19 pandemic. Furthermore, such

measures are hopefully temporary and at the time of writing this decision, restrictions had been significantly loosened.

12. The appellant's lack of knowledge of the requirements of the planning system is also unfortunate but does not provide any justification for the development but also has not counted against them. It is incumbent upon individuals who carry out such work to make sure that they are complying with all necessary regulations. I am not made aware of all of the circumstances regarding other modern shop-front alterations nearby or whether the persons responsible in those cases have been treated differently from the appellant in this case. Furthermore, whilst I have taken those matters into account as far as they affect the character and appearance of the area, it is not for me to revisit other decisions that may have been made or any other unauthorised developments.
13. These other matters do not therefore outweigh my conclusions on the main issue and do not provide public benefits individually or collectively that are sufficient to outweigh the harm to the CA which is a designated heritage asset.

The Appeal on ground (f)

14. The appeal on this ground is that the steps required exceed what is necessary to achieve the purpose of the notice. The purpose of the notice is to remedy the breach by restoring the land to its condition before the breach took place.
15. Given that ground (a) was also pleaded, I have considered the planning merits of the case and can therefore consider ground (f) in a flexible manner. I can consider solutions or obvious alternatives that are put to me that may be short of complete remedying of the breach.
16. Much of the appellant's arguments set out in relation to this ground of appeal have been taken into consideration with respect to the appeal under ground (a). I have not been provided with any alternative scheme that could have achieved the purpose of the notice such as any obvious steps short of compliance with what has been specified within its requirements.
17. The appeal on ground (f) fails.

Conclusion

18. 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.

Andy Harwood

INSPECTOR