
Appeal Decision

Site visit made on 22 October 2024

by Stephen Hawkins MA, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 1 November 2024

Appeal Ref: APP/R5510/C/23/3323482

193 Field End Road, Eastcote Pinner, London, HA5 1QR

- The appeal is made under section 174 of the Town and Country Planning Act 1990 (as amended). The appeal is made by Manager-Rusty Blade against an enforcement notice issued by the Council of the London Borough of Hillingdon.
 - The notice was issued on 2 May 2023.
 - The breach of planning control as alleged in the notice is without planning permission, the installation of a new shop front.
 - The requirements of the notice are: (i) Remove the modern fully glazed shopfront and entrance doors and replace with shopfront to match the design and appearance of the pre-existing shopfront including recessed shop front, stall riser (approx. 500mm in height) and detailing as shown on attached drawing reference FE-0107-PEFE dated 01-07-2020 (application reference: 49176/APP/2020/2141) and image marked Appendix A attached to the notice. (ii) Remove from the land all debris, items, building materials to include plant and machinery and fittings resulting from compliance with point (i) above.
 - The period for compliance with the requirements is three months.
 - 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.
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Decision

1. It is directed that the enforcement notice is varied by in paragraph 6 substituting 'three calendar months' with 'six months' as the period for compliance. Subject to this variation 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 Matter

2. My decision in the ground (a) appeal takes into account the revised National Planning Policy Framework (the Framework), published on 19 December 2023.

Ground (a) appeal

Background & Main Issues

3. The appeal concerns a commercial premises on the ground floor of a 2½ storey building. The building is situated towards the end of a row of buildings with commercial uses on the ground floor, forming part of a shopping parade in the suburban centre of Eastcote. The row, which originated in the early 1930s, is on a local list of buildings of architectural or historic importance. The premises are opposite but outside of the Eastcote (Morford Way) Conservation Area (CA). Therefore, the main issues in this appeal are:

- The effect of the new shopfront on the character and appearance of the building and the surrounding area, including its effect on the significance of the row as a non-designated heritage asset.
- The effect on the significance of the CA as a designated heritage asset through development within its setting.

Reasons

Character and appearance, effect on significance

4. According to the local listing entry, the significance of the row is largely derived from its 'Garden Suburb' architectural style, the diaper pattern brickwork and steeply pitched hipped tile roof with dormers to the attic floor, open veranda to the first floor with timber posts, projecting gable to each end and the contribution made to the street scene and local character. There is no sound reason why I should not concur with that assessment. Buildings elsewhere in the parade are of a similar age, design and external materials.
5. The enforcement notice attacks a new shopfront, including a central glazed door, installed at the front of the premises to replace a previous modern glazed shopfront. Being almost fully glazed the shopfront has a simple appearance, it maintains an active frontage and there is a slimmer, more restrained fascia compared to that which previously existed at the premises.
6. Nevertheless, the largely unrelieved area of glazing has meant that there is a general absence in the shopfront design of the details which contribute to the refined style and elegant proportions of more traditional shopfronts. These include for example stallrisers, mullions and transoms to break up and frame the glazed areas and recessed doorways. The expanse of glazing is given further emphasis by the positioning of the shopfront, which is set back only slightly behind the front face of the decorative render and brick square pilasters on either side, as well as the flush glazed door.
7. Due to the above factors, the shopfront appears as an obviously modern alteration to the building, not sitting comfortably with the distinctive architectural style and features of the building and the rest of the row and thereby failing to integrate successfully with its built surroundings. This does not compare favourably with the pre-existing shopfront which, although also of modern design was nevertheless arguably more sympathetic in appearance, being set back appreciably further from the pilasters, featuring a stallriser and incorporating areas of glazing broken up by noticeably thicker and more extensive framing.
8. I acknowledge that premises throughout the row and elsewhere in the vicinity exhibit a variety of modern, glazed shopfront treatments and modern signage, with few if any original shopfront features remaining. Even so, unlike at the premises some of the nearby shopfronts are set well back from the pilasters and/or they include features such as stallrisers, upright elements and recessed doors, thereby evoking the details of more traditional shopfronts.
9. Moreover, although nearby premises form part of the context in which the shopfront is experienced, it is unclear whether any of those shopfronts benefit from a grant of planning permission. I cannot therefore be reasonably assured that any of the examples referred to or other shopfronts nearby originated in similar circumstances to those applying in this case. Whatever the approach

previously taken by Inspectors in appeal decisions elsewhere, possibly in different circumstances, the mere existence of outwardly similar development is not in itself a good reason for granting permission, as it could be repeated *ad infinitum*. Consequently, the visual attributes of other nearby shopfronts provide only limited assistance to the appellant's case.

10. I have considered whether a suitable planning condition could be imposed requiring the shopfront to be altered to improve its appearance. This matter was raised under the ground (f) heading but is more appropriately considered in the ground (a) appeal, as it relates to the planning merits of the shopfront. However, in the absence of any details, I am not persuaded that the shortcomings identified above could be satisfactorily overcome simply by alterations. In my view, the works involved would be so extensive that they would amount to replacement of the shopfront in any event. The condition in the appeal decision referred to by the appellant simply required the approval and implementation of details of the external materials, not other, more extensive alterations to a shopfront.
11. Consequently, the shopfront harmfully erodes the character and appearance of the building and adversely affects the positive contribution made by the row to the character and appearance of the surrounding area. In doing so, there has been moderate harm to the significance of the row as a non-designated heritage asset. This is in conflict with criterion in Policy DMHB 13 of the Hillingdon Local Plan Part 2-Development Management Policies (LP2), which requires new shopfronts to complement the original design, proportions, materials and detailing of the building of which it forms a part and the surrounding street scene.
12. Similarly, the shopfront conflicts with Policy BE1 of the Hillingdon Local Plan Part 1-Strategic Policies (LP1) which requires all new development, including alterations, to be of high-quality design which enhances local distinctiveness and contributes to a sense of place. There is conflict with LP1 Policy HE1, which seeks to conserve and enhance locally listed buildings. There is also conflict with LP2 Policy DMHB 1, which requires alterations to be designed in sympathy without detracting from or competing with heritage assets, as well as with LP2 Policy DMHB 3, which requires development to retain the significance, appearance, character and setting of locally listed buildings.
13. Furthermore, the shopfront is in conflict with LP2 Policy DMHB 11, which requires new development including alterations to be designed to the highest standards incorporating principles of good design, including the architectural composition and quality of detailing, ensuring the use of high-quality building materials and finishes and safeguarding heritage assets. Since LP2 Policy DMHB 12 concerns development of the public realm, I am not clear how it is relevant to the shopfront; the Council did not explain its relevance to this case. Nevertheless, by not conserving the significance of the heritage asset and its appreciation within the surroundings, the shopfront conflicts with criterion in Policy HC1 of the London Plan. Additionally, by not achieving a well-designed and beautiful place or conserving and enhancing the historic environment, the shopfront is inconsistent with the Framework.

Effect on CA significance

14. The CA derives a good measure of its significance from the high quality, well detailed individually designed buildings therein, mostly dating from around the

1930s. As well as the buildings in commercial and residential use found opposite the premises, this includes a considerable number of dwellings arranged along adjoining residential streets, set in generous, regularly spaced plots with maturing landscape planting.

15. As the premises are part of the surroundings in which the CA is experienced, they form part of its setting. The reiteration in the row of an architectural style and detailing which echoes that of the CA nevertheless makes a modest contribution to understanding how the designated heritage asset evolved historically and to its past and present physical and functional relationships with the surroundings.
16. The shopfront is a relatively small-scale alteration to one of a number of buildings which make up the row. Also, as noted above it has replaced a modern shopfront. The shopfront draws negligible focus from the buildings and spaces which make up the CA, nor has it led to any quantifiable erosion in the manner in which the CA is appreciated and understood. Therefore, in my view there is no harmful effect on the significance of the CA as a designated heritage asset. There is no conflict with LP2 Policy DMHB 4, which concerns development affecting the CA. Even so, the absence of harm in this respect is a neutral factor which does not outweigh my other findings.

Ground (a) appeal-conclusion

17. Installing the shopfront has adversely affected the character and appearance of the building and its surroundings, also having a moderately harmful effect on the significance of the row as a non-designated heritage asset. This is in conflict with the Development Plan taken as a whole. There are no material considerations that indicate the decision should be made other than in accordance with the Development Plan. Therefore, the ground (a) appeal does not succeed.

Ground (f) appeal

18. The ground of appeal is that the notice requirements are excessive.
19. An enforcement notice can have the purpose of remedying the breach of planning control, including by restoring the land to its condition before the breach took place, or its purpose can be to remedy any injury to amenity caused by the breach. In this case, the purpose of the notice must be to remedy the breach. The requirements involve removing the shopfront and replacing it with one matching the design and appearance of the pre-existing shopfront. By doing so, the premises would be restored to its condition before the breach took place.
20. Whether a condition could be imposed to require alterations to the shopfront is dealt with above. In the context of ground (f), any requirement which stopped short of removing the shopfront would sustain the breach. This would not restore the premises to its condition before the breach took place and so would not achieve the purpose of the notice. Accordingly, altering the shopfront does not represent an obvious alternative to the notice requirements. No other alternative to those requirements was suggested and to my mind, nothing short of removing the shopfront and replacing it with one to match the pre-existing frontage would remedy the breach.

21. Therefore, the notice requirements are not excessive; they are a proportionate remedy involving the minimum works necessary to restore the premises to its condition before the breach took place. The ground (f) appeal fails.

Ground (g) appeal

22. The ground of appeal is that the time allowed for complying with the notice requirements is too short.
23. The remedial works would be reasonably modest in scale, they are not particularly complex and are likely to be a relatively straightforward job for a suitably experienced shopfitter or building contractor. Securing the services of a suitable shopfitter/contractor and agreeing the scope of the works is unlikely to be an especially difficult or time-consuming task. In all probability there are a significant number of firms employing staff with the relevant skills and expertise to undertake the works and who would be available to do so given a relatively short period of notice. In my estimation, the works themselves are unlikely to take more than a few weeks at most to complete, even allowing for third party inspections and for correcting defects where required. Therefore, I am not persuaded that completing the works would take longer than three months.
24. Nevertheless, in my view there is a distinct likelihood of the appellant wishing to explore installing a shopfront which differs in terms of its design and appearance to the pre-existing shopfront. This may also be a preferable solution for the Council as an alternative to replicating the pre-existing shopfront, given that the row is a heritage asset. In such an eventuality, it is possible that three months would afford insufficient time in which to prepare a planning application, including first consulting with the Council, then to submit the application and obtain approval for a suitable scheme as well as implement it. Nor can I rely on the Council exercising its power in s173(b) of the Act to extend the period for compliance, given the uncertainty involved.
25. Therefore, in my opinion a compliance period of six months would strike a more appropriate balance between remedying the breach and the associated planning harm as soon as is practicable whilst also affording the appellant a final time-limited opportunity in which to explore an alternative shopfront design, so as to ensure that a disproportionate burden is not imposed on them. There would be no injustice to the Council in varying the notice to extend the compliance period accordingly. The ground (g) appeal succeeds to this limited extent.

Conclusion

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

Stephen Hawkins

INSPECTOR