



Appeal Decision

Site Visit made on 5 November 2024

by J Whitfield BA(Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 21st November 2024

Appeal Ref: APP/V5570/C/24/3339580

Angel Tech Repairs, 346 Upper Street, LONDON, N1 0PD

- The appeal is made under section 174 of the Town and Country Planning Act 1990 (as amended). The appeal is made by Angel Tech Repair against an enforcement notice issued by the Council of the London Borough of Islington (the LPA).
 - The notice was issued on 17 January 2024.
 - The breach of planning control as alleged in the notice is, without planning permission, the installation of an aluminium shopfront and installation of a solid roller shutter and associated boxing.
 - The requirements of the notice are:
 - i. Remove the aluminium shop front, solid roller shutter and its associated boxing, fixings and brackets from the frontage of the property.
 - ii. Upon the completion of step i above, remove all the resulting associated waste materials from the land thereafter.
 - iii. Reinstall a timber shop frontage with timber stall riser and timber and glass entrance door to match the materials, design, appearance, colour and proportions of the previous shopfront as noted in the attached photograph marked A.
 - The period for compliance with the requirements is: 5 months.
 - The appeal is proceeding on the grounds set out in section 174(2)(a), (c), (f), (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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Formal Decision

1. It is directed that the enforcement notice is varied by the deletion of five (5) months and the substitution of eight (8) months as the time for compliance in schedule 5 of the notice.
2. Subject to the 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.

Appeal on ground (c)

3. An appeal on ground (c) is brought on the basis that those matters stated in the notice as constituting a breach of planning control, are not a breach of planning control. The onus is on the appellant to make out their case to the standard of the balance of probabilities.
4. The appellant's case is that the roller shutter and boxing are not development requiring planning permission because they are replacements of ones that were fitted previously.
5. S55 of the Act defines development as, inter alia, the carrying out of building operations. S55(1A) states that building operations includes additions to

buildings. The appellant does not argue that the installation of the roller shutter and boxing is not a building operation. Given that the roller shutter and boxing are physically attached to the building and have a significant degree of permanence, I am satisfied that their installation amounts to a building operation as additions to the building.

6. S55(2)(a) states that the carrying out of the maintenance, improvement or other alteration of any building of works which (i) affect only the interior of the building, or (ii) do not materially affect the external appearance of the building, do not involve development. The roller shutter and boxing are externally placed on the building. Thus, they do not affect only the interior of the building. Moreover, they are visible from several vantage points and are material to the appearance of the building. Furthermore, they are capable of having some effect in planning terms. To that end, they do materially affect the external appearance of the building. As a result, the roller shutter and boxing do not fall within either exemption under S55(2)(a) of the Act.
7. To that end, the roller shutter and boxing constitute development under S55 of the Act. There is no evidence of planning permission having been granted for the development subject of the notice.
8. Consequently, the alleged breach constitutes development without planning permission and is therefore a breach of planning control.
9. The appeal on ground (c) therefore fails.

Appeal on ground (a)

10. An appeal on ground (a) is brought on the basis that planning permission ought to be granted for the breach of planning control stated in the notice. Where an appeal on ground (a) is duly made, an application for planning permission is deemed to have been made.

Main Issue

11. The main issue is whether the development preserves or enhances the character or appearance of the Angel Conservation Area (the CA).

Reasons

12. The appeal site is located in the Angel Conservation Area (the CA). The significance of the CA derives from its historic origins beginning in the 17th century. The character is a general grain of development of individual buildings with traditionally narrow plot widths and heights between two and four storeys. The Islington Angel Conservation Area Design Guidelines (January 2002) identifies that the resulting vertical emphasis in the appearance of the buildings is echoed by the original shopfront pilasters and consoles which divide properties.
13. The Design Guidelines indicate that shopfronts in the area provide a visual focus and interest and are an important factor in creating the character of the area. It goes on to state that the Council will not usually permit the removal of part or all of an original shopfront as listed in the document, nor allow any alteration to a shopfront which is detrimental to the character of the area. The shop front at 346 Upper Street is listed as one such shopfront to be retained.

14. The development comprises the removal of the previous timber shopfront and the installation of an aluminium shopfront. I note that a roller shutter and boxing was in place prior to the development being carried out. However, the pictures provided shows that the building previously had a traditionally designed shop front constructed of timber. It had a panelled stall riser below the window with a decorative pilaster adjacent to the recessed doorway.
15. In contrast, the development has resulted in the installation of an aluminium shop front. The stall riser has been removed and replaced with a much narrower, aluminium panel below the larger window. Moreover, the pilaster adjacent to the doorway has been removed and replaced with a thin window frame. Further, the recessed doorway has been lost and replaced with a modern, aluminium, fully glazed door which sits flush with the shop front. In addition, the shop front has been finished with a rather bright blue colour which appears at odds to the prevailing character of the area. As a result, the replacement shop front has resulted in an incongruous and obtrusive feature within the street scene.
16. I note that there are other modern shop fronts elsewhere in the area, many of which the appellant has drawn my attention to. However, I was able to see from my site visit that there are also several examples of traditional shop fronts which have been retained in the immediate vicinity of the appeal site, on both sides of the road. As such, the modern shop fronts referred to by the appellant do not define the character and appearance of the CA, nor do they detract from the positive contribution the traditional shop fronts make to the significance of the CA.
17. I conclude, therefore, that the development will fail to preserve or enhance the character or appearance of the CA. Consequently, there is conflict with Policies D3, D4 and HC1 of the London Plan¹ which state that development should enhance and utilise heritage assets, which require design quality to be maintained and state that development affecting heritage assets should conserve their significance.
18. There will also be conflict with Policies PLAN1, DH1 and DH2 of the Islington Local Plan Strategic and Development Management Policies 2023 which state that development is to be of high quality, that it preserves or enhances heritage assets and, in particular, the significance of conservation areas.

Other Matters

19. I note the roller shutter and boxing are necessary for security reasons. However, whilst crime statistics for the area have been provided, they do not indicate the extent, if any, of thefts from shops. Moreover, the appellant has provided no evidence which demonstrates that there is a particular issue with security in respect of the appeal property itself. Nor has it been demonstrated whether an alternative solution to provide security could be achieved which is less harmful to the CA. To that end, the appellant's security concerns do not outweigh the harm to the significance of the CA.
20. The appellant states that they would be willing to alter the solid shutters to a brick bond type, however, the details of such a scheme are not before me. In

¹ The London Plan: The Spatial Development Strategy for Greater London 2021

any event, it is only open to me grant planning permission for the development subject of the enforcement notice.

21. Likewise, in the appeal on ground (f), the appellant suggests an alternative to complete removal would be to retain the aluminium shop front but alter it to increase the height of the stallriser to match the previous shopfront. However, as I have set out above, it is more than the height of the stallriser that has resulted in harm to the significance of the CA. Thus, even if the stallriser were increased in height, I am not satisfied the harm would be overcome.

Conclusion

22. For the reasons give above, I conclude that the appeal on ground (a) should not succeed, and I shall refuse the deemed application for planning permission.

Appeal on ground (f)

23. An appeal is brought on ground (f) on the basis that the requirements of the notice are excessive.
24. The notice requires the removal of the aluminium shop front, the roller shutter and the boxing. It then requires the reinstatement of a timber shop frontage to match that previously removed. It thus seems to me that the purpose of the notice, under S713(4) of the Act, is to remedy the breach of planning control by restoring the land to its condition before the breach took place.
25. Since the notice alleges the installation of an aluminium shop front, roller shutter and boxing, the requirements to remove them and reinstate the previous shop front do not go beyond what is necessary to remedy the breach of planning control.
26. The appellant says it is excessive to require the shop front to be painted black as per the photograph attached to the notice. However, the appellant accepts that the previous shop front was painted black. To that end, requiring it to be painted the same colour it was before the breach took place is not excessive.
27. The appellant states that the roller shutter and boxing should be retained for security reasons. However, I have found in the ground (a) that the planning harm would not be overcome by their retention. Moreover, failure to remove the shutter and boxing would not remedy the breach of planning control.
28. Overall, there are no lesser steps than removal of the development as a whole and reinstatement of the previous shopfront that would remedy the breach.
29. The appellant suggests an alternative to complete removal would be to retain the aluminium shop front but alter it to increase the height of the stallriser to match the previous shopfront. However, as set out above, such an alternative would not overcome the planning harm.
30. Likewise, the appellant suggests replacing the solid shutters to a brick bond type. However, I have found above that brick bond shutters do not form part of the breach and thus it is not open to me to consider granting planning permission for such a proposal on the ground (a) appeal.
31. The appeal on ground (f) therefore fails.

Appeal on ground (g)

32. An appeal on ground (g) is brought on the basis that the time period for compliance in the notice falls short of what should reasonably be allowed.
33. The notice gives 5 months for compliance. The appellant argues that a period for 8 months would be more reasonable given the time needed to employ a contractor and to carry out, what would be bespoke, work.
34. The LPA does not resist an extension of the time period to 8 months. I am satisfied that 8 months would provide sufficient time for the appellant to carry out the work whilst ensuring the planning harm is dealt with the necessary expediency.
35. The appeal on ground (g) therefore succeeds.

Overall Conclusions

36. 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).

J Whitfield

INSPECTOR