



Appeal Decision

Site visit made on 17 April 2023

by G Robbie BA(Hons) BPI MRTPI

an Inspector appointed by the Secretary of State

Decision date: 25th May 2023

Appeal Ref: APP/X5210/C/22/3293592

37 Chalton Street, London, NW1 1JD

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended.
- The appeal is made by Mr Liangfa He (Dashuo Ltd) against an enforcement notice issued by London Borough of Camden.
- The notice, numbered EN20/0726, was issued on 13 January 2022.
- The breach of planning control as alleged in the notice is Without planning permission: Installation of a new shopfront.
- The requirements of the notice are to:
 - 1) Remove the shopfront and reinstate the shopfront (to include fascia, timber framed windows, transoms, stallriser, pilasters and corbels) to replicate the shopfront which was removed, using the same proportions, architectural detailing and use of materials; and
 - 2) Make good any damage made as a result of the above works.
- The period for compliance with the requirements is: Three (3) months.
- The appeal is proceeding on the ground set out in section 174(2)(a) 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 Decision: The appeal is dismissed and the enforcement notice is upheld in the terms set out below in the Formal Decision.

Formal 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.

Preliminary Matters

2. Despite it being stated on the enforcement notice appeal form that the notice's date of issue was 13 February 2022, I am satisfied that the date of issue is as correctly set out in the banner heading, above. I have determined the appeal accordingly.

The appeal on ground (a)

Background and Main Issue

3. An application for planning permission for the 'installation of replacement shopfront (retrospective)'¹ was refused by the Council in November 2021. From the evidence available to me it appears that the replacement shopfront was installed during the course of the Council's consideration of that application.

¹ LPA Ref No: 2020/4986/P

4. The single reason for refusal in that instance broadly reflects the reasons for issuing the notice, as set out in the notice to which this appeal relates. The Council has confirmed that the reasoned justification set out in the delegated report in relation to the application for planning permission and the reasons set out in the notice comprehensively sets out the Council's case.
5. For the reasons set out above, the main issue therefore is the effect of the alleged works on the character and appearance of 37 Chalton Street and upon the surrounding area.

Reasons

6. The appeal property, a locally listed building, is a three storey building with a restaurant use at ground floor (with, I am advised, a basement level and dormer windows at roof level). At first and second floors it is faced with red brick, with three recessed bays, within which is decorative brickwork, with decorative stone cornice above.
7. The installed shopfront that the notice seeks to attack is also comprised of three bays; a glazed double door flanked by two full height glazed windows. The shopfront, set within a tiled surround, is offset to the lefthand side of the building, with a further opening to the righthand side providing a service access to the rear.
8. Whilst it may not have been an original shopfront, the previous iteration nevertheless displayed such traditional features as distinct pilasters framing the main 3-bay glazed unit with smaller ones as window frames, transom lights, fascia and console bracket, and stallriser. The doorway entrance to the restaurant (lefthand side) and a service entrance (righthand side) flanked the window openings which were centrally positioned beneath the 3-bay upper floors.
9. The appellant's description of the previous shopfront as being 'modern', of 'contemporary design' and constructed of 'modern materials' rather downplays the contribution it made to the building's character and appearance, and that of the wider street. Put simply, from the evidence before me, including photographic evidence of the previous shopfront, its modernity was overstated.
10. Rather, what the appellant perceives with the current shopfront to be inoffensive is instead a bland, generic and modern shopfront that lacks the subtle detailing of the previous iteration. Whatever its age relative to the building as a whole, the previous shopfront was of more traditional proportions and appearance and incorporated design features commensurate with that. The shopfront in this instance jars incongruously with the proportions and balance of the building's upper levels, which highlights the positive aspects of that which has been lost.
11. I saw that shopfront design is varied along Chalton Street's length, the examples provided confirming my observations whilst visiting the site. Although some may also have the benefit of planning permission, I do not have the full details of, or circumstances surrounding, their planning history. I also saw during my visit to Chalton Street that there are other, more positive shopfront examples than some of those cited, which employ more traditional shopfront design features. As such, these generally relate more positively to

the buildings upon which they are located, something that the appeal scheme lacks. Whilst I acknowledge that the appeal property sits next to an unsympathetic shopfront neither it, nor the appeal property in its current guise, nor the small number of other such shopfronts, define the character of Chalton Street.

12. The appellant has also advanced a business case for the replacement shopfront, citing feedback from unsuccessful marketing campaigns as justification for the appeal scheme. However, and whilst I do not seek to underplay the effect of COVID-related lockdowns on the hospitality and leisure sector, the evidence is generic in relation to the market and anecdotal with respect to the appeal building in terms of feedback from potential occupiers. Nor have I been presented with any compelling evidence that the unit, whilst claimed by the appellant to be challenging to let, was, or was at risk of becoming, vacant.
13. The relative condition of the previous shopfront is not a compelling justification for the harm that I have concluded arises from its replacement, nor has it been shown that there were no other means of improving its physical condition without resorting to the type of wholesale replacement undertaken and which the notice seeks to address.
14. I understand that the popularity and attractiveness of a restaurant to passers-by can be influenced by the accessibility of views into its interior. A greater extent of glazing within the openings than the previous shopfront would potentially increase the scope for that. However, the unit's internal layout appears to work against that aim with a centrally positioned bar counter which restricts the very views the appellant seeks to advance as part of a business justification. I accept that interior layouts can change independently of a shopfront, but I am not persuaded that these arguments set out are sufficiently compelling to outweigh the harm that I have identified.
15. For the reasons set out, the replacement shopfront fails to respect or complement local character and context, absent the more traditional features and styling details of the previous shopfront. Furthermore, it also jars incongruously and harmfully with the proportions, character and appearance of the host building's upper floor façade, lacking the balance of those upper elements, and also of the shopfront which it replaced. I agree with the Council in its setting out the reasons for issuing the notice, that the replacement shopfront's design, scale and materials would cause harm to the character and appearance of the appeal property, a locally listed building, and to the surrounding area.
16. This is contrary to Policies D1 and D3 of the Camden Local Plan 2017 (CLP). Together, these policies set out the Council's approach to securing high quality design in development, consistent with the aims and provisions of the National Planning Policy Framework (the Framework). Together, they require that, amongst other matters, developments respect local context and character, preserve or enhance the historic environment and comprises details and materials that are of high quality and complement local character.
17. With specific reference to proposals for new and altered shopfronts, CLP Policy D3 again expects high standards of design, with considerations including the design and materials of the shopfront, the existing character, architectural and historic merit of both the host building and existing shopfront, and the

relationship between the two. The appeal scheme is therefore contrary to CLP Policies D1 and D3, and the Framework in seeking to ensure development and design of the highest standard.

18. CLP Policy D2 seeks the preservation and, where appropriate, enhancement of designated and non-designated heritage assets, the latter including locally listed heritage assets. The replacement shopfront is a harmful addition to the appeal building, its bland, generic modern design jarring with the proportions of the appeal building's upper façade and the traditional features and proportions of the previous shopfront.
19. Whilst not original, I am satisfied from the evidence before me that the previous shopfront possessed sufficient traditional features and proportions to be a positive contributor to the character and appearance of the building and surrounding area in a manner in which the replacement is not, and does not. Nor have any compelling public benefits been demonstrated to have arisen from the replacement shopfront. In the absence of such, the harmful effect on the significance of the non-designated heritage asset is compelling and the scheme fails to accord with the aims and provisions of CLP Policy D2, and the Framework with respect to its provisions regarding the historic environment, as a consequence.

Conclusion

20. 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.

G Robbie

INSPECTOR