



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: 15 November 2024

Appeal Ref: APP/X5210/C/23/3336128

2 Quex Road, London NW6 4PH

- The appeal is made under section 174 of the Town and Country Planning Act 1990 (as amended). The appeal is made by Haji Suleman Halal Butchers against an enforcement notice issued by the Council of the London Borough of Camden (the Council).
 - The notice was issued on 16 November 2023.
 - The breach of planning control as alleged in the notice is, without planning permission, the removal of an existing shop front.
 - The requirements of the notice are:
 1. Reinstate a shopfront to replicate the design, materials and proportions of the previous shopfront (as shown in Appendix A).
 2. Make good any damage caused as a result of the above works.
 - The period for compliance with the requirements is: 6 months.
 - The appeal is proceeding on the ground[s] set out in section 174(2)(a), (b), (d), (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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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 S177(5) of the 1990 Act as amended.

Appeal on ground (b)

2. An appeal on ground (b) is brought on the basis that the alleged breach of planning control stated in the notice has not occurred.
3. The appellant's case is that no structural damage has occurred because of the alteration. However, there is no argument that the alleged breach has not occurred. The appellant does not dispute that the shop front at the property has been removed.
4. The appeal on ground (b) therefore fails.

Appeal on ground (d)

5. An appeal on ground (d) is brought on the basis that, at the date when the notice was issued, no enforcement action could be taken in respect of the breach of planning control stated in the notice.
6. At the time the enforcement notice was issued, the relevant time limit by which enforcement action could no longer be taken under S171B(1) of the Act was four years beginning with the date the operations were substantially completed. It is necessary therefore for the appellant to demonstrate that the

removal of the shop front was substantially completed on or before 16 November 2019.

7. The appellant says they attempted contact with the Council on 27 July to ask about the planning process and had no response for 5 months before undertaking the work. They do not state which year. In any event, what matters is when the building operations comprising the removal of the shop front were substantially completed.
8. The appellant states that they took a lease for the building in June 2023 and kept the shop front for a few months before removing it. On that basis, it is evident that the removal of the shop front took place at some point after June 2023. There is no evidence its removal was substantially completed on or before 16 November 2019.
9. Thus, at the time the notice was issued, the development was not immune from enforcement action.
10. The appeal on ground (d) therefore fails.

Appeal on ground (a)

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

Main Issues

12. The main issue is the effect of the development on the character and appearance of the area.

Reasons

13. The appeal site is located on a small shopping parade close to Kilburn High Street. The area is characterised by ground floor commercial units with accommodation above. I saw from my site visit that traditional shopfronts at ground floor level play a significant role in defining the character and appearance of the surrounding area.
14. Submitted photographs show the shopfront comprised of a glazed window, recessed door and tiled stall riser. It was an attractive, traditional shop front, in keeping with the character of the surrounding area.
15. In contrast, the removal of the shop front has resulted in a large, open space in the front of the building. Products within the shop are in full display and there is no physical separation between the internal area of the shop and the pavement outside. As a result, the development has resulted in an incongruous loss to the architectural composition of the property and the parade it forms part of.
16. I conclude, therefore, that the development will have a harmful effect on the character and appearance of the area. Consequently, the development conflicts with Policies D1 and D3 of the Camden Local Plan 2017 which seek to secure high quality design in development and a high standard of design in altered shopfronts. In particular, Policy D3 states that the Council will resist the removal of shop windows without a suitable replacement.

Other Matters

17. The appellant states that no damage has been done to the structural integrity of the building by the removal of the shop front, albeit no such evidence is before me. However, even if that is the case, the lack of harm in that respect would not outweigh the harm to the character and appearance of the area.
18. The appellant also states that the shop front had to be removed to support their business as the previous glass was a health and safety risk and that they have had break ins with the previous shop fronts.
19. However, there is little evidence before me to support such matters to the extent they would outweigh the harm I have identified. Furthermore, the appellant claims that the previous shop front would result in a loss of customers. However, again, there is little in the way of substantive evidence which supports that position.

Conclusion

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

Appeal on ground (f)

21. An appeal on ground (f) is brought on the basis that that the steps required by the notice to be taken, exceed what is necessary to remedy any breach of planning control or, as the case may be, to remedy any injury to amenity which has been caused by the breach.
22. The notice requires the reinstatement of a shop front of the same design, materials and proportions of the shop front which was removed. On the basis, the purpose of the notice is to remedy the breach of planning control by restoring the Land to its condition before the breach took place.
23. Any lesser step than reinstating the removed shop front would not remedy the breach of planning control.
24. The appellant states that a different shop front could be installed of a fully glazed design. However, few details of any proposed shop front are before. In any event, requiring the installation of a different shop front would not remedy the breach of planning control, which is the removal of the previous shop front.
25. The appeal on ground (f) therefore fails.

Appeal on ground (g)

26. An appeal on ground (g) is brought on the basis that the time for compliance with the requirements of the notice is too short.
27. The notice gives a period for six months for the reinstatement works to be done. The appellant says they would be unable to afford the reinstatement works. However, that is not evidenced by supporting documentation. In any event, it seems to me that six months would be sufficient time to prepare and make arrangements for the works to be undertaken, as well the actually undertaking the works. A period of six months is appropriate given the need to deal with the planning harm with the requisite expediency.

28. The appeal on ground (g) therefore fails.

Conclusions

29. 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 S177(5) of the 1990 Act (as amended).

J Whitfield

INSPECTOR