



Appeal Decision

Site visit made on 24 August 2012

by Gloria McFarlane LLB(Hons) BA(Hons) Solicitor (Non-practising)

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 12 September 2012

Appeal Ref: APP/X5210/C/12/2172992

38 England's Lane, London, NW3 4UE

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991.
- The appeal is made by Keith Ranger against an enforcement notice issued by the Council of the London Borough of Camden.
- The Council's reference is EN09/0865.
- The notice was issued on 29 February 2012.
- The breach of planning control as alleged in the notice is the installation of two air conditioning units and associated enclosure at fascia level on the front façade of the existing estate agents (Class A2).
- The requirements of the notice are to remove the two air-conditioning units and enclosure and reinstate the shop-front and fascia to their original form.
- The period for compliance with the requirements is six months.
- The appeal is proceeding on the grounds set out in section 174(2)(a) of the Town and Country Planning Act 1990 as amended. Since the prescribed fees have been paid within the specified period, the application for planning permission deemed to have been made under section 177(5) of the Act as amended also falls to be considered.

Summary of Decision: The appeal is dismissed and the enforcement notice upheld.

The appeal on ground (a) and the deemed planning application

1. The main issue in the appeal and the deemed application is the effect of the air conditioning units and associated enclosure on the character and appearance of the shop-front, the host building and the Belsize Conservation Area.
2. The appeal site is a mid-terrace property located on the north-east side of England's Lane. The basement and ground floor are in use as an estate agent and there are residential uses on the upper floors.
3. The Belsize Conservation Area covers a large area and comprises a number of different and distinct parts; England's Lane is one of these sub-areas. So far as this appeal is concerned, one of the main features of the area is the shopfronts which 'retain a variety of original details including scrolls, pilasters, fascias, doors and frames'¹.
4. The air-conditioner enclosure is a bulky and prominent structure on the front of the building. It protrudes some distance beyond the wall of the building to incorporate the units themselves. The structure has vents at either end at the front and on the underneath which results in an unattractive, utilitarian design.

¹ Page 28 of The Belsize Conservation Area Statement

At the top of the structure there is some poorly attached flashing which exacerbates the detrimental visual impact of the enclosure. There are what appear to be switches or attachments on both sides of the enclosure and an alarm system box on one side; the gray and yellow colours of these attachments are in stark contrast with the maroon coloured enclosure and stand out unacceptably. I note that the corbel on the side and the timber shopfront have been retained, but these positive features have been overwhelmed by the incongruous and excessive bulk of the enclosure.

5. The Council accepts in the Belsize Conservation Area Statement that many shopfronts in England's Lane are of poor design and quality and there is much scope for improvement. The stated negative features in the area primarily concern inappropriately proportioned shopfronts and fascia treatments and loss of corbel details at eaves level. The Council advises that some of these shopfronts were granted permission when different policies were in force or are immune from enforcement action. In any event, unfortunate alterations in the past, or for whatever other reason, do not justify a development that results in the harm I have found above which, in my opinion, does not enhance or preserve the character or appearance of the Conservation Area.
6. Policy CS14 of the London Borough of Camden Local Development Framework Core Strategy, Policies DP24, DP25 and DP30 of the London Borough of Camden Local Development Framework Development Policies and Camden Planning Guidance generally seek to encourage good design and secure Camden's heritage, including historic and distinctive shopfronts. The protection and enhancement of the built environment is part of the environmental role of the planning system set out in the National Planning Policy Framework. For the reasons given above I consider that the development that is the subject of the enforcement notice fails to comply with these policies.

Other Matters

7. I have noted the Appellant's reasons why the air-conditioning units were installed in this manner. However, these reasons relate to, among other things, the need for air-conditioning units and the inability to locate them elsewhere. These reasons do not address the planning merits and I cannot comment in this decision on whether the units could have been located elsewhere, although I noted from Elizabeth Mews that there are a number of flues/vents on the rears of properties fronting England's Lane. These matters do not outweigh the harm I have found.
8. The effect on neighbours' living conditions is not a reason given for issuing the notice but the occupier of the first floor flat has made representations that the air-conditioning units, which are located under her bedroom window, cause her disturbance because of noise and vibrations. Although, the Council's environmental health team consider, on the basis of a report supplied by the Appellant, that there is no unacceptable impact in terms of noise², the Council has suggested a condition to safeguard the amenities of the adjoining premises should I be minded to grant permission. I am therefore somewhat confused about the Council's position on this matter and am unable to reach any conclusion with regard to the effect on neighbours' living conditions.

² I have no information about vibrations

Conclusions

9. For the reasons given above, and taking all other matters into account, I conclude that the air-conditioning units and associated enclosure have a harmful effect on the character and appearance of the shop-front, the host building and the Belsize Conservation Area and that the appeal should not succeed. I shall uphold the enforcement notice and refuse to grant planning permission on the deemed application.

Decision

10. The appeal is dismissed and the enforcement notice is upheld. Planning permission is refused on the application deemed to have been made under section 177(5) of the 1990 Act as amended.

Gloria McFarlane

Inspector