

**Appeal by
MR G QUARINI**

**Against an enforcement notice issued by
COUNCIL OF LONDON BOROUGH OF CAMDEN**

in respect of alleged breach of planning involving works

**at
10 Highgate Road,
London NW5 1NR**

GROUND OF APPEAL

LPA reference : EN14/0687

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1. CONTENTS

- (2) INTRODUCTION AND GROUNDS OF APPEAL
- (3) SITE AND LOCATION
- (4) PLANNING HISTORY
- (5) PLANNING POLICY
- (6) THE CASE FOR THE APPELLANT
- (7) CONCLUSION

2. INTRODUCTION AND GROUNDS OF APPEAL

- 2.1. The appeal is made under S174(2) of the Town and Country Planning Act 1990 (as amended) in respect of an Enforcement Notice Ref EN14/0687, issued by the London Borough of Camden Council and dated 6 April 2017. The Notice is due to take effect on 18 May 2017 unless an appeal is received prior to the effective date.
- 2.2. The Notice is issued in relation to 10 Highgate Road, London NW5 1NR. The alleged breach of planning control is without planning permission the installation of a fully glazed shopfront including roller shutter housing and fascia board to the front elevation of the ground floor retail unit.
- 2.3. The reasons given for issuing the Notice state that the breach of planning control has occurred within the last four years. It is further stated that the works comprising the alleged breach of planning control are harmful to the character of the street and the building, contrary to Policies CS5 and CS14 of the London Borough of Camden Local Development Framework Core Strategy and Policies DP24 and DP30 of the London Borough of Camden Local Development Framework Development Policies.
- 2.4. The Notice requires the appellant to: completely remove the roller shutter housing and fascia board and association fixtures from the shop frontage; remove the fully glazed shopfront to the front elevation of the ground floor retail unit; reinstate the original traditional timber frame shopfront with stall riser and vertical mullions; and make good any damage to the building as a result of the works. The compliance period is three months of the Notice taking effect.

- 2.5. The appeal is made on **Ground (a)** that planning permission should be granted for what is alleged in the Enforcement Notice; on **Ground (d)** that at the time the Notice was issued it was too late to take enforcement action against the roller shutter housing; and on **Ground (g)** that the time given to comply with the Notice is too short.

3. SITE AND LOCATION

- 3.1. The appeal relates to 10 Highgate Road, London NW5 1NR, comprising a ground floor retail unit with residential accommodation on the upper floors. The site is within the built-up area in a location characterised by a mix of commercial and residential development. As noted below, the area includes numerous modern shopfronts and examples of modern fascia boards and illuminated advertisements.

4. PLANNING HISTORY

- 4.1. The appellant's application Ref 2015/6040/9, seeking retrospective planning permission for the works to the shopfront, was refused by the Council on 21 December 2015 on the grounds that the design and materials used harm the appearance of the property. An associated application Ref 2014/7938/A for advertisement consent was refused, also on 21 December 2015, owing to the bulk, design and location of the sign, which was considered harmful to the appearance of the property. Although the advertisement is not mentioned in the Enforcement Notice, and as such is outside the scope of this appeal, the removal of the roller shutter housing and fascia board, if upheld, would necessitate the removal of the fascia sign. Reference will also be made to application Ref 2008/3165/A, approved by the Council on 15 April 2009, granting advertisement consent for an externally spot lit fascia sign.

5. PLANNING POLICY

Development Plan Policy

- 5.1. The Council relies on Policies CS5 and CS14 of its adopted Core Strategy and Policies DP24 and DP30 of its adopted Development Policies.

- 5.2. Policy CS5 is concerned with managing the impact of growth and development. This includes providing the uses and facilities to meet the needs of the local population whilst protecting and enhancing the environment, amenity and quality of life of local communities. Policy CS14 seeks to promote high quality places and conserve heritage. Amongst other things, development should respect local context and character, whilst preserving heritage assets and their settings.
- 5.3. Policy DP24 is concerned with promoting high quality design. To this end development should take account of the character and proportions of the existing building, where alterations and extensions are proposed, and the quality of materials to be used. Other matters to be taken into account include the character, setting, context, form and scale of neighbouring buildings.
- 5.4. Policy DP30 deals with shopfronts, canopies, blinds, security measures and other features. In considering such proposals consideration will be given to the design of the shopfront or feature; the existing character, architectural and historic merit and design of the building and its shopfront; the relationship between the shopfront and the upper floors of the building and surrounding properties; the general characteristics of shopfronts in the area; and community safety and the contribution made by shopfronts to natural surveillance. Where an original shopfront of architectural or historic value survives, in whole or in substantial part, there will be a presumption in favour of its retention. Where a new shopfront forms part of a group where original shopfronts survive, its design should complement their quality and character.

National Policy

- 5.5. National policy is contained primarily in the National Planning Policy Framework. Further guidance is provided in the Planning Practice Guidance. With regard to Enforcement, the Framework notes that enforcement action is discretionary, and local planning authorities should act proportionately in responding to suspected breaches of planning control.

5.6. Great importance is attached to the design of the built environment. Development should function well and add to the overall quality of the area. The Planning Practice Guidance notes that advertisements may only be assessed in relation to amenity and public safety. In assessing amenity, consideration should always be given to the local characteristics of the neighbourhood.

6. **THE CASE FOR THE APPELLANT**

6.1. The appeal is made on **Ground (a)** that planning permission should be granted for what is alleged in the Enforcement Notice; on **Ground (d)** that at the time the Notice was issued it was too late to take enforcement action against the roller shutter housing; and on **Ground (g)** that the time given to comply with the Notice is too short.

Ground (a)

6.2. It is argued on Ground (a) that planning permission should be granted for the shopfront. The main issue in this respect is the effect of the development on the character and appearance of the area.

6.3. The local area includes both traditional and contemporary buildings. The traditional buildings include the Grade II listed buildings of the Christ Apostolic Church and the Forum ballroom. However, although overlooked from the lower end of Highgate Road, the listed buildings stand apart from the shopping frontage, which reflects a diversity of building forms and styles.

6.4. Indeed, the immediate locality of the site, which is outside the conservation area, is characterised as much by its diversity as anything else. The appeal property, for example, is flanked by a modern four storey apartment block (Tally Ho Apartments) and there are numerous examples nearby of modern shopfronts and fascias, many of which are dominated by modern glazing and illuminated signage. We have submitted with this statement a series of photographs illustrating the same to assist the Inspector in advance of the appeal site visit.

6.5. When considered in this context, the appellant's shopfront is entirely consistent with the existing environment, which in turn is typical of a modern shopping frontage. The features to which the Council objects, such as the modern glazing and box fascia, are well established features of the street scene. Contrary to what is alleged by the Council, the appellant's shopfront takes full account of the character, setting, context, form and scale of neighbouring buildings, as required by Policy DP24, as will be readily apparent from the many similar shopfronts to be found in the vicinity of the site.

6.6. Although there is a general presumption under Policy DP30 of retaining original shopfronts, this applies only where the original shopfront is of architectural or historic value. However, in this case the original shopfront (shown below) was of poor quality and lacked any features of historic interest. It was neither elegant nor finely detailed and the materials were of inferior quality. Indeed, it is our considered opinion that the original shopfront detracted from the quality of the shopping frontage, giving the property a most undesirable appearance of tiredness and neglect.



Above: original shopfront at 10 Highgate Road

- 6.7. Neither does the new shopfront form part of a significant group of surviving original shopfronts. On the contrary, as we have noted, the appeal property now sits in an area of mixed character, including numerous modern buildings and shopfronts. This will be readily apparent from the appeal site visit and is amply illustrated by the photograph below, which shows the existing shopfront where it adjoins the modern Tally Ho apartment block.



Above: existing shopfront at 10 Highgate Road

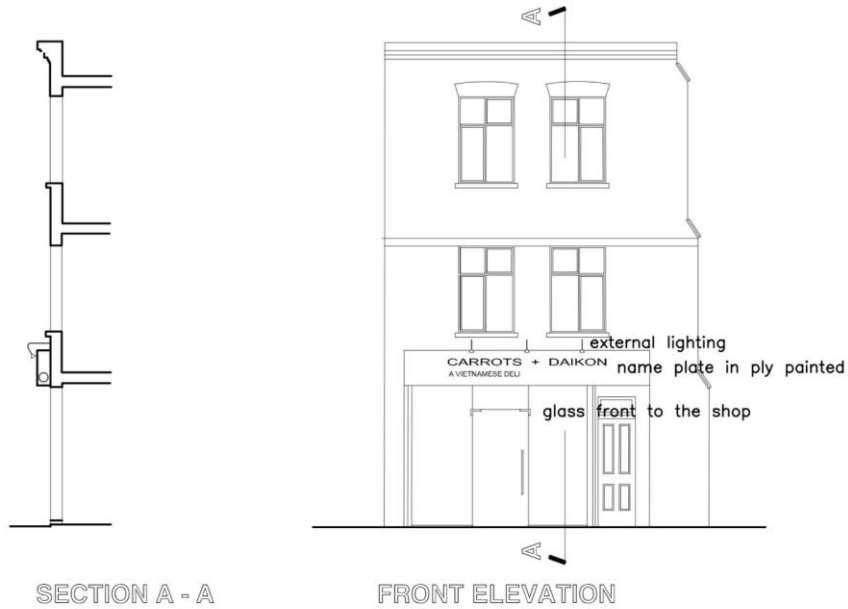
- 6.8. It will be seen that the existing shopfront reflects the general characteristics of shopfronts in the area, as required by Policy CP30. As regards the height of the roller shutter box and fascia board, it will be equally apparent that there is no consistency in terms of the height of shopfronts along this section of Highgate Road. Just as the form and height of the buildings vary, so too does the form and height of the shopfronts.

- 6.9. Finally, with regards to the projection of the fascia, this is a function of the roller shutter housing, to which the fascia is attached and which has been in place since 2009 (see Ground (d) below). The fascia and associated signage, in and of itself, are entirely consistent with the general characteristics of the shopping frontage.
- 6.10. The detailed requirements of Policies DP24 and DP30, and the general provisions of Policies CS5 and CS14, are therefore satisfied. The Council nevertheless appears to be unreasonably opposed to the provision of a modern shopfront, seeking instead to revert to a traditional design for which there is no justification in planning terms, given the diverse character of the local environment. Contrary to what is alleged in the Enforcement Notice, the development causes no harm to the character and appearance of the area. The Inspector is therefore asked to allow the appeal under Ground (a) and grant planning permission accordingly.

Ground (d)

- 6.11. It is argued on Ground (d) that at the time the Notice was issued it was too late to take enforcement action against the roller shutter housing, to which the fascia board is attached.
- 6.12. The evidence for this is taken from the planning history and, in particular, application Ref 2008/3165/A, approved by the Council on 15 April 2009. This granted advertisement consent for an externally spot lit fascia sign. The decision notice and approved plans, copies of which are included with our appeal submissions, clearly show the roller shutter housing, to which the current fascia board is attached. For ease of reference, a comparison of the 2009 approved plans and the 2015 proposed shopfront plans is reproduced below.
- 6.13. This demonstrates that the roller shutter housing has been in place since at least 15 April 2009. There is no evidence to suggest that the roller shutter housing has ever been removed. Indeed, the shopfront has not been altered since 2009 except to install the existing unauthorised shopfront, the plans for which clearly show the new fascia installed onto the existing roller shutter housing.

6.14. On the balance of probability, the evidence before the Inspector supports the appellant's position that it is too late to take enforcement action against the roller shutter housing under the four-year rule.



Above (top): proposed shopfront; (bottom) approved shopfront

6.15. The Inspector is therefore asked to uphold the appeal on Ground (d) insofar as the Enforcement Notice relates to the roller shutter housing. If the Inspector agrees, the fact that the roller shutter housing is lawful development must be taken into account

in relation to the appeal on Ground (a). In particular, we submit that this consideration removes one of the Council's main objections to the proposed shopfront, insofar as the projection of the fascia sign is a function of the roller shutter housing, against which enforcement action cannot now be taken.

7. Ground (g)

- 7.1. Without prejudice, and should the appeal fail on Ground (a) and Ground (d), it is argued on Ground (g) that the time given to comply with the Notice is too short. The Inspector is asked to allow a compliance period of six months, to afford a reasonable period for the necessary works to be completed.

8. CONCLUSION

- 8.1. In conclusion, it is argued on Ground (a) that planning permission should be granted for the development as no significant harm would be caused to the character and appearance of the area. It has been demonstrated on Ground (d) that at the time the Notice was issued it was too late to take enforcement action against the roller shutter housing. It is further argued under Ground (g), without prejudice and should the appeal fail on Ground (a) and (d), that the compliance period should be extended to six months to allow a reasonable time for the necessary works to be completed.

17 May 2017

Humphreys & Co.