



Appeal Decision

Site visit made on 30 January 2018

by **Stephen Brown MA(Cantab) DipArch RIBA**

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

Decision date: 19 February 2018

Appeal Ref: APP/X5210/C/17/3175939

Land at 10 Highgate Road, London NW5 1NR

- 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 by Guiseppi Quarini against an enforcement notice issued by the Council of the London Borough of Camden.
 - The enforcement notice, ref.EN14/0687, was issued on 6 April 2017.
 - The breach of planning control alleged in the notice 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 (Class A1).
 - The requirements of the notice are to:
 1. Completely remove the roller shutter housing and fascia board and associated fixtures from the shop frontage.
 2. Remove the fully glazed shopfront to the front elevation of the ground floor retail unit.
 3. Re-instate the original traditional timber frame shopfront with stall riser and vertical mullions.
 4. Make good any damage to the building as a result of the works.
 - The period for compliance with the requirements is 3 months.
 - The appeal is proceeding on the grounds set out in section 174(2)(a), (d) and (g) of the Town and Country Planning Act 1990 as amended. The prescribed fees have been paid within the specified period, and the appeal on ground (a) and the application for planning permission deemed to have been made under section 177(5) of the Act as amended fall to be considered.
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Decision

1. The appeal is allowed, the enforcement notice is quashed and planning permission is granted on the application deemed to have been made under section 177(5) of the 1990 Act as amended for the development already carried out, namely the installation of a fully glazed shopfront including roller shutter housing and fascia board to the front elevation of the ground floor retail unit (Class A1), on land at 10 Highgate Road, London NW5 1NR referred to in the notice.

Background matters

2. The appeal property stands on the eastern side of Highgate Road, just north of the junction with Fortress Road. It is a 3-storey building with a Vietnamese delicatessen on the ground floor, and I understand there are two floor of residential accommodation above. The shopfront subject of the notice is predominantly glazed, above which is the roller shutter housing and fascia.

Photographs show the previous shopfront was partly glazed above a stall riser at roughly waist height, and a central door, also glazed from the same level. This was framed in white painted timber, and appeared very much of a piece with the relatively modern timber casement windows with top-lights in the floors above. The timber entrance door to the upper floor accommodation, to the right of the shopfront¹, remains in place.

The appeal on ground (d)

3. This ground is that this operational development is immune from enforcement action due to the passage of time – that is it was substantially complete at least 4 years before the enforcement notice was issued. The appellant argues this only in respect of the roller shutter and housing, which he claims to have been there since at least 2009. In support of this, drawings of a fascia sign granted planning permission in 2009² have been submitted. However, the approved drawings clearly do not relate to the appeal premises, but to an entirely different building elsewhere in Highgate Road, and that scheme did not incorporate a roller shutter.
4. The Council accept there probably has been a roller shutter and housing on the building for four or more years, but they argue that with the recent alterations this was moved from its original position to a new position, and this was therefore a new act of development that would require planning permission. A photograph from July 2012 shows a fascia with its bottom edge just above the head of the top light above the entrance door to the upper floors. Below this, extending across the width of the shopfront itself, and the same width as the roller shutter – shown in the closed position – was a separate element. In the Council's opinion this was the original shutter housing. Furthermore, it did not become apparent until July 2014 that the new fascia and shopfront had been installed – considerably less than the 4 year period required to obtain immunity.
5. I saw that in the present arrangement the fascia projects from the face of the building in order to house the shutter, and the bottom edge of the entire assembly is above the top light of the entrance door. The top of the new fascia is very much closer to the first floor window cills.
6. The appellant's evidence of what is purported to be the previous situation does virtually nothing to support the existence of the roller shutter and housing in 2009. I consider the Council's explanation of the situation to be very much more likely, and concur with their view that the roller shutter was probably installed in the new position at some time in 2014.
7. I conclude that on the balance of probabilities the roller shutter and housing were not installed in their present position four or more years prior to issue of the enforcement notice. The appeal on ground (d) therefore fails.

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

8. From my observation of the site and surroundings, and from all that I have read I consider the main issue in the appeal to be the effect of the development on the character and appearance of the building and the street scene in its vicinity.

¹ When looking from the street.

² Planning permission ref. 2008/3165/A.

9. I saw that nearby buildings are of diverse scale and design. Immediately adjacent to the north is a modern 4-storey block with its ground storey up to the level of the top of the first floor of no. 10, and there are 3 storeys above. To the south is a quite handsome late 19th or early 20th century building of 3-storeys plus a mansard attic, beyond which is a modest 2-storey building, and on the Corner of Highgate Road and Fortess Road a substantial 4-storey building of elaborate design. There is little consistency in terms of scale and height, and the ground floors of all these properties show little in the way of the type of traditional shopfront the Council seek to promote. Shopfronts in the area are of widely different appearance including some of traditional design, but also many of modern design with large areas of glazing.
10. Although the appeal property was clearly of similar design and age to its neighbour to the south, it has been much altered and retains little of interest. While the previous shopfront had features such as the stall riser, I concur with the appellant's view that it was of poor quality, and in my view could not be regarded as a traditional front, and had little in the way of architectural or historic merit. In my opinion virtually nothing would be gained by replicating this shopfront.
11. The new shopfront is entirely glazed from ground level to the head of the door-frame to its right, with virtually no framing apparent. The fascia and roller shutter housing above are plain white with clear graphics. In my opinion this is an unobtrusive modern shopfront design that does not appear incongruous in the context of the varied designs and scales of those in the vicinity.
12. I conclude on the main issue that the shopfront and fascia have a neutral effect on the character and appearance of the building and the street scene in its vicinity. I consider the development accords with the development plan, particular in terms of Policies CS5 and CS14 of the London Borough of Camden Local Development Framework Core Strategy, which include aims to protect and enhance the environment, and to promote high quality spaces. Furthermore it accords with Policies DP24 and DP30 of the London Borough of Camden Local Development Framework Development Policies. These include aims to secure high quality design, and to control the design of shopfronts.
13. The appeal on ground (a) therefore succeeds. I intend to quash the enforcement notice, and grant planning permission on the deemed planning application. The development has already been carried out, and no conditions on the permission would be necessary.

Conclusions

14. For the reasons given above I conclude that the appeal should succeed on ground (a) and planning permission will be granted. The appeal on ground (g) does not therefore need to be considered.

Stephen Brown

INSPECTOR