
Appeal Decision

Site visit made on 18 February 2020

by AJ Steen BA(Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 17 March 2020

Appeal Ref: APP/X5210/C/19/3233725

96 Belsize Lane, London NW3 5BE

- 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 Mr Ivan Lazzaroni of Omnide against an enforcement notice issued by the Council of the London Borough of Camden.
- The enforcement notice, numbered EN19/0013, was issued on 11 June 2019.
- The breach of planning control as alleged in the notice is without planning permission: Alteration of shopfront including the installation of fully glazed framed window and entrance door.
- The requirements of the notice are:
 1. Reinstate the front ground floor window and door to replicate the pre-existing, in terms of materials and design with frames and dividers as shown on appendix A.
 2. Make good any damage caused as a result of the above works.
- The period for compliance with the requirements is three months.
- The appeal is proceeding on the grounds set out in section 174(2)(a) and (f) of the Town and Country Planning Act 1990 as amended. Since the prescribed fee has been paid within the specified period, the application for planning permission deemed to have been made under section 177(5) of the Act also falls to be considered.

Summary Decision: The appeal is dismissed and the enforcement notice is upheld in the terms set out below in the Formal Decision.

Preliminary Matters

1. The company name of the appellant is given as Ominide and Omnide at various points. I have used Omnide as that is used on the shopfront.
2. I note that an appeal for advertisement consent for the signage associated with the shopfront has been allowed under reference APP/X5210/Z/19/3221980. I have taken that into account in coming to my decision.

The Appeal on Ground (a) and the Deemed Planning Application

Main issue

3. The effect of the shopfront on the character and appearance of the existing building and surrounding area with particular regard to Belsize Park Conservation Area.

Reasons

4. Belsize Park Conservation Area is a mix of urban development with distinct areas of varying character and appearance. The area around Belsize Lane is a particularly dense network of terraces and mews developments leading to the

centre of Belsize Village, around the junction of Belsize Lane and Belsize Terrace. 96 Belsize Lane is separated from the centre of Belsize Village by a group of residential dwellings and health clinic within a three storey terrace of buildings. It is located at the end of a short parade of shops on the junction with Daleham Mews. The position at the end of the terrace and on a junction means that this is a relatively prominent location, where the shopfront is seen by those approaching and passing the parade of shops.

5. The shopfront is of a plain, modern design of muted grey render with timber window and door frames. As a result, it contrasts with the more elaborate traditional shopfronts on other units in this area, albeit I note there are other shopfronts of more modern design. In particular, the single panel of fenestration differs from other shopfronts that have vertical glazing bars, along with stall risers or divided windows toward the bottom. The grey surround and fascia appear large and blank, despite the simple logo of the appellant. Overall, this results in a discordant appearance to the shopfront that appears somewhat incongruous within the street scene.
6. I note that the previous shopfront was of a modern design and appearance that did not reflect the more attractive older shopfronts in the area. However, it did have vertical glazing bars and horizontal bars that divided the window. I accept that it did not contribute to the character and appearance of the conservation area, but that does not outweigh my conclusions as to the effect of the replacement shopfront on the character and appearance of the area.
7. For these reasons, I conclude that the shopfront fails to preserve or enhance the character and appearance of the existing building and surrounding area within Belsize Park Conservation Area. Consequently, it harms the significance of this designated heritage asset. As such, the shopfront is contrary to Policies D1, D2 and D3 of the Camden Local Plan and the National Planning Policy Framework (the Framework) that seek a high quality design for shopfronts that respects local context and character and preserves or enhances the historic environment and heritage assets, such as conservation areas, including their character and appearance.
8. The Framework advises at Paragraph 193 that, when considering the impact of a development on the significance of a designated heritage asset, great weight should be given to the asset's conservation. As heritage assets are irreplaceable, any harm or loss should require clear and convincing justification. Accordingly, while less than the 'substantial harm' referred to in Paragraph 195 of the Framework, the harm to the conservation area is nevertheless a matter of considerable importance in this case.
9. Paragraph 196 of the Framework establishes that, where a development leads to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal, including securing its optimum viable use. The revised shopfront providing good visibility to and from the street, along with the refurbished premises, meets the needs of this small business and provides a networking hub that contributes to the social and economic functions of the area. Support from a number of neighbouring residents and businesses has been drawn to my attention. Nevertheless, these factors do not comprise public benefits sufficient to overcome the substantial weight to the significance of the heritage asset.

10. The appellant has suggested that it would be possible to amend the scheme to incorporate details missing from the installed shopfront, such as transom and mullion dividers. However, I have limited information as to how and where these would be located or how it would affect the appearance of the shopfront. As a result, it is not clear whether this would form part of the development enforced against and, consequently, it would not be possible to allow this alternative scheme.

Conclusion

11. For the reasons set out above, I conclude that the development does not accord with the development plan. The appeal on ground (a) therefore fails.

The Appeal on Ground (f)

12. An appeal on this ground is that the steps required by the notice to be taken, or the activities required by the notice to cease, exceed what is necessary to remedy any breach of planning control which may be constituted by those matters or, as the case may be, to remedy any injury to amenity which has been caused by any such breach. In this case, the requirements seek to reinstate a shopfront to match that previously installed that would restore the land to its condition before the breach took place. Clearly, therefore, the purpose of the notice requirements is to remedy the breach of planning control under paragraph 173(4)(a) of the Town and Country Planning Act 1990 (as amended) (the Act).
13. The appellant suggests that the requirement to replicate the previous shopfront is excessive, unnecessary, impractical, costly and contrary to policies and advice as they consider that was, itself, unsympathetic and of poor design. However, Section 173 of the Act only allows the steps required by the notice to restore the land to its condition before the breach took place. Requiring any other shopfront would go beyond what is permitted by the Act.
14. The appellant has suggested that it would be possible to amend the scheme to incorporate details missing from the installed shopfront. However, I have limited information as to how and where these would be located or how it would affect the appearance of the shopfront. As a result, I have already concluded that I am unable to grant planning permission for it under the ground (a) appeal.
15. They also suggest that the requirements are unclear. However, the notice describes what is required to remedy the breach of planning control, including a photograph of the previous shopfront that is required to be replaced by the notice. As a result, the requirements are sufficiently clear.
16. As a result, I conclude that the requirements of the notice do not exceed what is necessary in order to remedy the breach of planning control. As such, the appeal fails on ground (f).

Formal Decision

17. 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.

AJ Steen INSPECTOR