



Appeal Decisions

Site visit made on 12th July 2011

by Clive Whitehouse BA(Hons) MCD MRTPI

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

Decision date: 15 July 2011

Appeal A: APP/H0738/C/11/2150411

Former Newsagents, 55 The Green, Billingham, Stockton-on-Tees TS23 1EW

- 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 Ahmed Wahid against an enforcement notice issued by Stockton-on-Tees Borough Council.
- The Council's reference is 11/00016/ENF.
- The notice was issued on 10th March 2011.
- The breach of planning control as alleged in the notice is the installation of a UPVC shop front (inclusive of two (2) UPVC aligned doors and nine (9) UPVC double-glazed windows) to the front elevation of the premises and a single UPVC double glazed window in the north elevation of the premises.
- The requirements of the notice are (i) Remove the UPVC shop front (inclusive of two UPVC aligned doors and nine UPVC double-glazed windows) to the front elevation of the premises and restore the premises back to the condition it was in before the breach took place. (ii) Remove the single UPVC double-glazed window in the north elevation of the premises and restore the premises to the condition it was in before the breach took place. (iii) Remove from the land all the resultant debris/materials associated with complying with points (i) & (ii), above.
- The period for compliance with the requirements is two months.
- The appeal is proceeding on the grounds set out in section 174(2) (a), (f) and (g) of the Town and Country Planning Act 1990 as amended.

Summary of Decision: The appeal is dismissed and the enforcement notice upheld with a variation, as set out in the formal decision, below.

Appeal B: APP/H0738/C/11/2150435

Famous Pizzeria 55 The Green, Billingham, Stockton-on-Tees TS23 1EW

- 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 Ahmed Wahid against an enforcement notice issued by Stockton-on-Tees Borough Council.
- The Council's reference is 11/00017/ENF.
- The notice was issued on 10th March 2011.
- The breach of planning control as alleged in the notice is the installation of a UPVC shop front (inclusive of three (3) UPVC double-glazed windows and panels) to the front elevation of the premises.
- The requirements of the notice are (i) Remove the UPVC shop front (inclusive of three UPVC double-glazed windows and panels) from the front elevation of the premises. (ii) Restore the shop front back to the condition it was in before the breach took place. (iii) Remove from the land all the resultant debris/materials associated with complying with point (i), above.
- The period for compliance with the requirements is two months.
- The appeal is proceeding on the grounds set out in section 174(2)(a), (f) and (g) of the

Town and Country Planning Act 1990 as amended.

Summary of Decision: The appeal is dismissed and the enforcement notice upheld with a variation, as set out in the formal decision, below.

Procedural Matters

1. The enforcement notices relate to the shop fronts of two adjoining commercial premises, which appear to share the address of 55 The Green. For clarity, I will adopt the appellant's practice of describing the small pizza take-away as No.55b, and the former newsagents as No.55c. A social club next to the take-away also has the number 55, but is not affected by the notice.
2. The same planning issues apply to the shop fronts of Nos.55b and 55c, and I will deal with them jointly.

Appeals on Ground (a)

Main Issue

3. The main issue in each case is the effect of the replacement shop fronts on the character or appearance of the Billingham Green Conservation Area.

Reasons

4. The appellant acquired the leasehold of the two premises in 2010, at which time No.55c had been vacant for about a year. The shop fronts were in need of replacement since parts of the timber frames were rotten and some of the windows were broken. The Council's attention was drawn to the replacement UPVC shop front at 55c when work was in progress, and a retrospective planning application was refused in February 2011.
5. No.55c is quite a large, triple-fronted unit within a brick and render building that probably dates from the post-war period. The unit remains vacant and has whitewashed windows. No.55b is a small unit within an older part of the same terrace. A photograph of the group is included in the Billingham Green Conservation Area Appraisal as examples of "non-traditional shop fronts", and the text describes them as having "various incongruous shop fronts and advertisements" that were considered to be in need of general upgrading.
6. The Council clearly recognises that enforcement notices can not be used to require a general upgrading of the premises, and the requirements of the notices are only that the UPVC shop fronts be removed and restored to the style of the previous shop fronts. Even compared to those, the Council considers that the present shop fronts are a retrograde step, whereas the appellant considers them to have a neutral effect. The question before me is therefore whether the present UPVC shop fronts are significantly worse in terms of the character and appearance of the area that the shop fronts they replaced.
7. From the available photographs, the previous frontage to No.55c had the advantage in visual terms of two recessed doors, which broke up the appearance of the frontage into three distinct shop windows. The doors have been replaced flush with the new windows and the effect in my view emphasises the length and scale of the frontage. The UPVC window on the north elevation is within a splayed corner of the property and is seen as a

further part of the shop front. I consider that the design of the shop front and the use of UPVC on that scale with its white plastic appearance is a retrograde step, compared to the style and materials of the previous frontage.

8. The appellant has suggested that a condition could be attached requiring the shop fronts to be painted a different colour but I have no information on the effectiveness or durability of such treatments on UPVC surfaces and I am not convinced that such a condition would overcome the harm.
9. No.55b has a smaller frontage but is almost continuous with 55c and it adds to the overall effect of the use of UPVC across a wide frontage. In addition the UPVC panels below and to the sides of the window frames at 55b are in my view particularly inappropriate.
10. The valued characteristics of the Conservation Area derive largely from the village green with its mature trees and the listed church and churchyard. Few older buildings have survived around these open spaces and most of the buildings facing onto the green are in a variety of modern styles. The appellant's observation that about half of the properties in the Conservation Area have UPVC windows appears to be broadly accurate from my inspection, notably in respect of the modern houses on the north side. My attention has also been drawn to the brown UPVC windows on a modern terraced house at 1 Church Road, for which planning permission was granted following an appeal in 2006. The visual context for the appeal properties also includes the neighbouring mock-Tudor style public house with its carefully detailed timbers and brickwork.
11. I recognise that UPVC windows have become commonplace within the Conservation Area, and I accept that the material could be acceptable in certain instances, such as the windows installed at 1 Church Road. However, in the present case, I conclude that the design and large scale use of UPVC material on the combined shop fronts and their very prominent position has resulted in a detrimental effect on the character and appearance of the Billingham Green Conservation Area. As such the works conflict with saved policy EN24 of the Stockton-on-Tees Local Plan, which includes the requirement that the scale, mass, detailing and materials are appropriate to the character and appearance of the area, and with the guiding principles set out in the Council's Supplementary Planning Guidance on shop front design.

Other Matters

12. The appellant emphasises that the shop fronts were in need of replacement and that the works have made No.55c more attractive to retail occupiers, which it is hoped will help bring to an end the negative effect of its continuing vacancy. The requirement for effective thermal insulation is also raised. I am not convinced that these other objectives could not have been met by a design and materials consistent with the original shop fronts.
13. I have had regard to all other matters raised, including the representations made both for and against the works by interested persons.

Appeals on Ground (f)

14. The appeals on this ground are on the basis that the requirements of the notice are excessive and lesser steps would overcome the harm. The matters raised under this heading largely duplicate points considered under ground (a). A

further suggestion is that carefully designed signs could improve the appearance. However, the signage is incomplete and is not subject to the enforcement notices. Proposed signage is a separate matter for consideration by the Council.

Appeals on Ground (g)

15. The appellant considers that the 2 month period for compliance specified in the notices is too short. In his opinion it would be undesirable to restore the shop fronts to their condition before the breach took place, as required by the notice, and he suggests that new applications for shop fronts that complied with current energy efficiency requirements may be necessary, and that a minimum period of 18 months should be allowed for that process.
16. Planning permission is not required to comply with the terms of the notice by reverting to the style and materials of the previous shop fronts. However, to allow time for other options to be discussed, I will extend the period for compliance. I consider the period of 18 months to be unnecessarily long and will vary the notice to extend the compliance period to 6 months.

Formal Decisions

Appeal A: APP/H0738/C/11/2150411

17. I direct that the enforcement notice be varied by deleting the period of 2 months in paragraph 6 and substituting a period of 6 months.
18. Subject to that variation, 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.

Appeal B: APP/H0738/C/11/2150435

19. I direct that the enforcement notice be varied by deleting the period of 2 months in paragraph 6 and substituting a period of 6 months.
20. Subject to that variation, 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.

C Whitehouse
INSPECTOR