



Appeal Decision

Site visit made on 30 March 2010

by **Alan Langton** DipTp CEng MRTPI MICE MCIHT

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

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Decision date:
15 April 2010

Appeal Ref: APP/Q1445/C/09/2113956

Good News, 33 Sydney Street, Brighton BN1 4EP

- 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 Tariq Gamil against an enforcement notice issued by Brighton & Hove City Council.
- The Council's reference is 2009/0049.
- The notice was issued on 7 September 2009.
- The breach of planning control as alleged in the notice is, without planning permission:
 - 1) The installation of an Automatic Teller Machine (ATM) with Alarm Box above, within the shop front.
 - 2) The installation of a 'Dutch Blind' below the fascia of the shop front.
 - 3) The installation of a 'solid' roller shutter to the front entrance with shutter housing above.
- The requirements of the notice are:
 - 1) Remove Automatic Teller Machine (ATM).
 - 2) Remove the additional vertical window mullion, black panelling and burglar alarm and restore the shopfront to that which existed prior to installation of the ATM.
 - 3) Remove the 'Dutch Blind'
 - 4) Remove the solid roller shutter, shutter box and guide rails from in front of the entrance recess.
- The period for compliance with the requirements is 3 months.
- The appeal is proceeding on the grounds set out in section 174(2) (f) & (g) of the Town and Country Planning Act 1990 as amended. Since the prescribed fees have not 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 does not fall to be considered.

Decision: I dismiss the appeal and uphold the enforcement notice.

Reasons

1. As submitted the appeal was limited to ground (a) only, which lapsed as the fees required to consider it were not paid. Implicit within that initial appeal were issues within the scope of grounds (f) and (g), which do not require a fee, and the appeal proceeded on this basis. I have to say though that very little was submitted in support. The merits of the works, including such matters as the service provided by the ATM lie outside the scope of grounds (f) or (g), although I note the dismissal of an appeal under Section 78 with respect to the ATM¹. Also, although discussions are to be encouraged, as advised by the Inspectorate's case officers it is not open to them or me to mediate between the appellant and the Council. My role is to decide on the disputed enforcement notice.

¹ APP/Q1445/A/09/2107574 – issued following a site visit on 7 December 2009

Ground (f)

2. The enforcement notice lists more items required to be removed than it expressly identifies in the alleged breaches of planning control. However, it is clear that the window mullion and black panelling were installed as integral parts of the ATM and similarly the guide rails are self evident components of the roller shutter. Accordingly I am satisfied that the notice does not go further than necessary in order to remedy the breaches, and that the appeal fails on ground (f).

Ground (g)

3. Should the appellant wish to apply to install a different shop front, rather than restore the former one in compliance with the notice, this would be something for the Council to consider at least in the first instance. The Council have discretionary power to extend the compliance period should they consider that appropriate in the light of new proposals submitted to them. However, direct compliance with the notice could practicably be carried out within 3 months which is accordingly not too short and the appeal fails on ground (g).

Alan Langton

Inspector