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## Penderfyniad ar yr Apêl

Ymweliad â safle a wnaed ar 04/02/20

gan Alwyn B Nixon BSc MRTPI

Arolygydd a benodir gan Weinidogion Cymru

Dyddiad: 04.05.2020

## Appeal Decision

Site visit made on 04/02/20

by Alwyn B Nixon BSc MRTPI

an Inspector appointed by the Welsh Ministers

Date: 04.05.2020

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**Appeal Ref: APP/B6855/C/19/3237447**

**Site address: The Bookshop, 27 Uplands Crescent, Uplands, Swansea SA2 0NX**

**The Welsh Ministers have transferred the authority to decide this appeal to me as the appointed Inspector.**

- 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 Sililo Martens against an enforcement notice issued by City and County of Swansea Council.
  - The enforcement notice, numbered ENF2018/0376, was issued on 30 August 2019.
  - The breach of planning control as alleged in the notice is "without planning permission, the removal of a shop front and the installation of a new shop front with bi-fold security doors".
  - The requirements of the notice are: (i) remove the new shop front including bi-fold security doors; (ii) remove all resultant debris; (iii) replace with a shopfront to match the former shop front as shown in the attached photograph entitled "Former Shop Front".
  - 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 (g) of the Town and Country Planning Act 1990 as amended.
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### Decision

1. The appeal is allowed on ground (g), and it is directed that the enforcement notice be varied by the deletion of 3 months and the substitution of 6 months as the period for compliance. Subject to this variation the enforcement notice is upheld.

### Ground (a) – that planning permission should be granted for what is alleged in the notice

2. Having regard to the reasons given for issuing the enforcement notice, the main issue in this appeal is whether the unauthorised development preserves or enhances the character or appearance of the Ffynone and Uplands Conservation Area.
3. The appeal property stands within a terraced frontage having commercial uses at ground floor level and comprising part of the Uplands district shopping centre, which lies within the Ffynone and Uplands Conservation Area. The ground floor was previously a retail unit; however, planning permission was granted in 2018 for change of use of the ground floor from retail (Class A1) and first floor flat (Class C3) to bar/restaurant (Class A3). The development at which the enforcement notice is directed has occurred in conjunction with the introduction of the new A3 bar/restaurant use.

4. The development plan for the area is the Swansea Local Development Plan (LDP) 2010 – 2025, which was adopted in February 2019. LDP policy HC 2 requires that proposals preserve or enhance the County's buildings and features of historic importance. Part v. of the policy states that development within or adjacent to a conservation area will only be permitted if it would preserve or enhance the character or appearance of the conservation area or its setting. It also states that new development in such areas must also be of a high standard of design. Other relevant policies are PS 2, which states requires that development should enhance the quality of places and spaces and accord with relevant placemaking principles, and HC 1, which requires proposals to preserve and enhance the County's distinctive historic and cultural environment.
5. Paragraph 2.6.13 of the supporting text to LDP HC 2 relates specifically to conservation areas. It states that Conservation Area Appraisals will be used to provide a clear and agreed definition of those elements which contribute to the special character and historic interest of the area. It says that the findings of the CAAs need to be taken fully into account when considering development proposals.
6. The submitted photographic evidence shows that prior to the unauthorised works taking place 27 Uplands Crescent possessed a traditional shopfront positioned at the rear pavement edge. I accept that the former shopfront was not of high overall architectural quality, and that details such as the fascia finish and external security shutters and housing were unattractive features. Nonetheless, the previous shopfront reflected the basic components of a traditional shopfront design, with stall-riser, fascia and pilaster details providing a visual form consistent with the surviving historic retail character of this part of the Ffynone and Uplands Conservation Area.
7. The Ffynone and Uplands Conservation Area Character Appraisal and Management Plan notes a range of issues concerning the Uplands Crescent character area, including the plethora of modern shopfronts and a lack of maintenance of buildings. Whilst seeking to encourage new shopfronts, the document recommends that the design of these should follow new shopfront guidance from the Council. The Council adopted its Shop Front and Commercial Frontage Design Guide in 2017.
8. I note that the guidance acknowledges that in some circumstances a more contemporary design of shopfront may be acceptable, where it would result in an improvement over the former situation. However, in this case the development carried out is of a markedly different form and appearance to the fixed flush frontage of the shopfront it has replaced. The flush shopfront form has been replaced with a shopfront deeply recessed under the first floor of the building, creating an obvious and incongruous void within the street frontage and a sense of the upper floors of the building frontage left unsupported over the space formed below. The dwarf walls and folding mesh screens which are drawn across when the premises are closed fail to echo adequately the traditional shopfront features which have been replaced and do not impart any real sense of solidity or substance to the façade at ground floor level. Overall, the new frontage fails to preserve or enhance the character or the appearance of the Ffynone and Uplands Conservation Area.
9. I note that some other commercial facades within the conservation area have more contemporary features and have at some point lost their traditional shopfront detailing. However, the Conservation Area Character Appraisal and Management Plan reflects a clear approach of seeking to ensure that new shop front proposals adhere to the new shopfront guidance adopted in 2017. The existing changes to The Bookshop frontage patently do not achieve this. I give little weight to the existence of other contemporary commercial frontage designs since I do not know when these were approved, what they replaced or what policy and guidance was in force at the time.

Those matters do not in any event override the statutory duty on me to pay special regard to the desirability of preserving or enhancing the character or the appearance of the conservation area in determining the matters before me.

10. It is evident that prior to the issuing of the notice there were attempts to agree a mutually acceptable alternative scheme. However, consideration of the merits of such alternative proposals is a matter for the Council in the first instance and does not form part of the matters before me for determination. My decision is solely in relation to the works carried out at which the notice is directed, and the requirement of the notice to put the shopfront back as it was. The submitted grounds of appeal also suggest that ground (a) is argued and a grant of permission sought in respect of certain other building works at 27 Uplands Crescent. However, my decision relates only to the matters identified in the enforcement notice, and whether they should be permitted to remain.
11. In reaching my conclusion that the enforcement notice should be upheld, I recognise that its requirements include reinstating the pre-existing shopfront, which was not of high architectural quality and included unsatisfactory features such as the external security shutters. However, whilst this may not represent the best conceivable outcome, I remain of the view that reinstatement of the shopfront in its pre-existing flush frontage form is preferable to allowing the current form of development to remain.
12. Overall on ground (a) I conclude that the breach of planning control identified by the notice neither preserves nor enhances the character or appearance of the Ffynone and Uplands Conservation Area and that the development that has taken place fails to accord with LDP policies HC 2, HC 1 and PS 2. The development the subject of the notice therefore does not accord with the development plan. Having had regard to all matters raised, I do not find material considerations in this case which point to a decision otherwise than in accordance with the plan.
13. The appeal on ground (a) therefore fails.

### **Ground (g)**

14. In order to comply with the requirements of the notice the appellant will need to engage someone to prepare a detailed specification and drawings for the replacement shop front, and then engage contractors to manufacture and install the shop front. I agree with the appellant that 3 months is an unreasonably short timescale within which to expect this process to be completed. I therefore allow the appeal on ground (g). I shall extend the period for compliance with the requirements of the notice to 6 months.
15. In reaching my conclusions, I have taken account of the requirements of sections 3 and 5 of the Well Being of Future Generations (Wales) Act 2015. I consider that this decision is in accordance with the Act's sustainable development principle through its contribution towards the Welsh Ministers' well-being objective of building better environments.

*Alwyn B Nixon*

**Inspector**