



Appeal Decisions

Site visit made on 15 February 2010

by **M A Champion BSc CEng FICE**
FIStructE FIHT FHKIE

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

The Planning Inspectorate
4/11 Eagle Wing
Temple Quay House
2 The Square
Temple Quay
Bristol BS1 6PN

☎ 0117 372 6372
email:enquiries@pins.gsi.gov.uk

Decision date:
3 March 2010

Appeal A: APP/J1915/C/09/2118513

Glow Tanning Studios, 14B High Street, Stanstead Abbotts, SG12 8AB.

- 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 Mrs Kim Hargreaves of A-Tech Leisure Ltd T/A Glow against an enforcement notice issued by East Hertfordshire District Council.
- The Council's reference is E/09/0174/B.
- The notice was issued on 11 November 2009.
- The breach of planning control as alleged in the notice is:
Without planning permission, the unauthorised change of use of the shop premises from 'T' shirt printing and clothing sales to a tanning studio.
- The requirements of the notice are:
Cease the unauthorised use of the land and building.
- The period for compliance with the requirements is six months.
- The appeal is proceeding on the grounds set out in section 174(2) (a) of the Town and Country Planning Act 1990 as amended.

Summary of Decision: The appeal is allowed and the enforcement notice is corrected and quashed.

Appeal B: APP/J1915/A/09/2118404

14B High Street, Stanstead Abbotts, Ware, SG12 8AB.

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
- The appeal is made by Mrs Kim Hargreaves of A-Tech Leisure Ltd T/A Glow against the decision of East Hertfordshire District Council.
- The application ref: 3/09/0691/FP, dated 6 May 2009, was refused by notice dated 20 August 2009.
- The development proposed is a change of business from personalised printing to a tanning studio.

Summary of Decision: The appeal is allowed and planning permission granted in the terms set out below in the formal decision.

Preliminary Matters

1. The description given above in Appeal B is taken from the application form. The Council's refusal notice describes the development as the change of use from B1 (printers) to tanning studio (sui generis). However other evidence, subsequently confirmed by both parties, indicates that the authorised use is retail (Class A1) as this was the primary former use, with printing being an ancillary part of the business. I shall therefore deal with the appeal on the basis of the change of use being from retail (Class A1) to tanning studio (sui generis).
 2. In the evidence before me the appellant's company is quoted variously as "A-Tech Leisure Ltd T/A Glow" and "A Tech Ltd T/A Glow". As the former form is used by the appellant I use it in these decisions.
-

3. In Appeal B the Council's refusal notice refers to Policy STC3. The Council states that this is an error and the correct policy is STC4. Also in Appeal B the location plan submitted with the application incorrectly indicates the appeal site.
4. In Appeal A the plan attached to the enforcement notice correctly indicates the appeal site but annotates it as No 14C. I am satisfied that the appellant has not been misled and will issue a corrected plan with this decision.

Appeal A ground (a) and Appeal B

Reasons

5. I consider that the main issue is the effect of the development on the vitality and viability of the shopping frontage.
6. Saved Policy STC4 of the East Herts Local Plan Second Review 2007 deals with shopping frontages in smaller centres such as Stanstead Abbots.
7. The appeal site lies in a mixed commercial and residential area within the local shopping frontage of Stanstead Abbots High Street, and within the Stanstead Abbots Conservation Area.
8. The site comprises a ground floor retail property, and is part of a mixed-use building with ground floor retail shops and residential accommodation above. The current use represents a change of business for the appellant who previously ran a retail business from the premises. The shop unit was not vacant between uses, neither was any marketing undertaken.
9. The Council raises no objection with respect to the Stanstead Abbots Conservation Area. The appearance of the shop unit has not changed and I therefore consider that the existing character and appearance of the Conservation Area would be preserved.
10. The shopping area extends for some distance along the High Street and comprises a mix of shopping and residential frontages. The Council considers that there are 7 units in the continuous retail frontage that includes the site. The unauthorised use results in one unit remaining in Class A1 use, with one other in residential use. The number of Class A1 uses is thus below the 50% threshold advised by Policy STC4.
11. However the Local Plan expects a variety of uses in smaller centres, and seeks to maintain their vitality and viability by encouraging new retail uses that are appropriate in scale and retain the physical compactness of the centres. Uses from other specified classes are also encouraged subject to there not being an excessive concentration of non-shop uses.
12. While the current use may offer a service rather than products, although retail sales are an ancillary function, in terms of the scale and degree of use it remains a shop, the outward appearance of which has been retained. Moreover the appellant states, and the Council does not dispute, that business has increased since the change of use. Increased usage, in my opinion, increases the vitality of the area, and increased trade increases its viability as a shopping centre.

13. There is no evidence to suggest that the unauthorised use adversely affects residential amenity, or results in significant traffic generation or unfavourable conditions within the shopping centre. Rather it adds to the diversity of specialist shops in the area.
14. Furthermore, I concur with the appellant that if planning permission were granted for this specific sui generis use, then should it at any time cease a further application to the Council would be necessary for any other use. The Council would thus retain control over future uses of the site.

Conclusion

15. I conclude therefore, that the positive factors in favour of the development are sufficient to outweigh the policy objection in terms of a concentration of non-shop uses. The proposal would not adversely affect the vitality and viability of the shopping frontage. Appeal A ground (a) and Appeal B thus succeed.

Conditions

16. The Council has not suggested any conditions, nor do I consider that any are necessary.

Conclusions

Appeals A and B

17. For the reasons given above I conclude that the appeals should be allowed and planning permission granted. Accordingly the enforcement notice will be quashed.

Formal Decisions

Appeal A

18. I direct that the enforcement notice be corrected by the substitution of the attached plan for that attached to the enforcement notice.
19. Subject to this correction I allow the appeal and direct that the enforcement notice be quashed. I grant planning permission 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 change of use of the shop premises from 'T' shirt printing and clothing sales to a tanning studio, at Glow Tanning Studios, 14B High Street, Stanstead Abbots, SG12 8AB.

Appeal B

20. I allow the appeal and grant planning permission for the change of use from retail (Class A1) to a tanning studio (sui generis) with ancillary retail of tanning products, at Glow Tanning Studios, 14B High Street, Stanstead Abbots, SG12 8AB, in accordance with the terms of the application, ref: 3/09/0691/FP, dated 6 May 2009 and the plans submitted therewith.

M A Champion

INSPECTOR



Plan

This is the plan referred to in my decision dated: 03.03.10

by M A Champion BSc CEng FICE
F18tructE FC1HT FHK1E

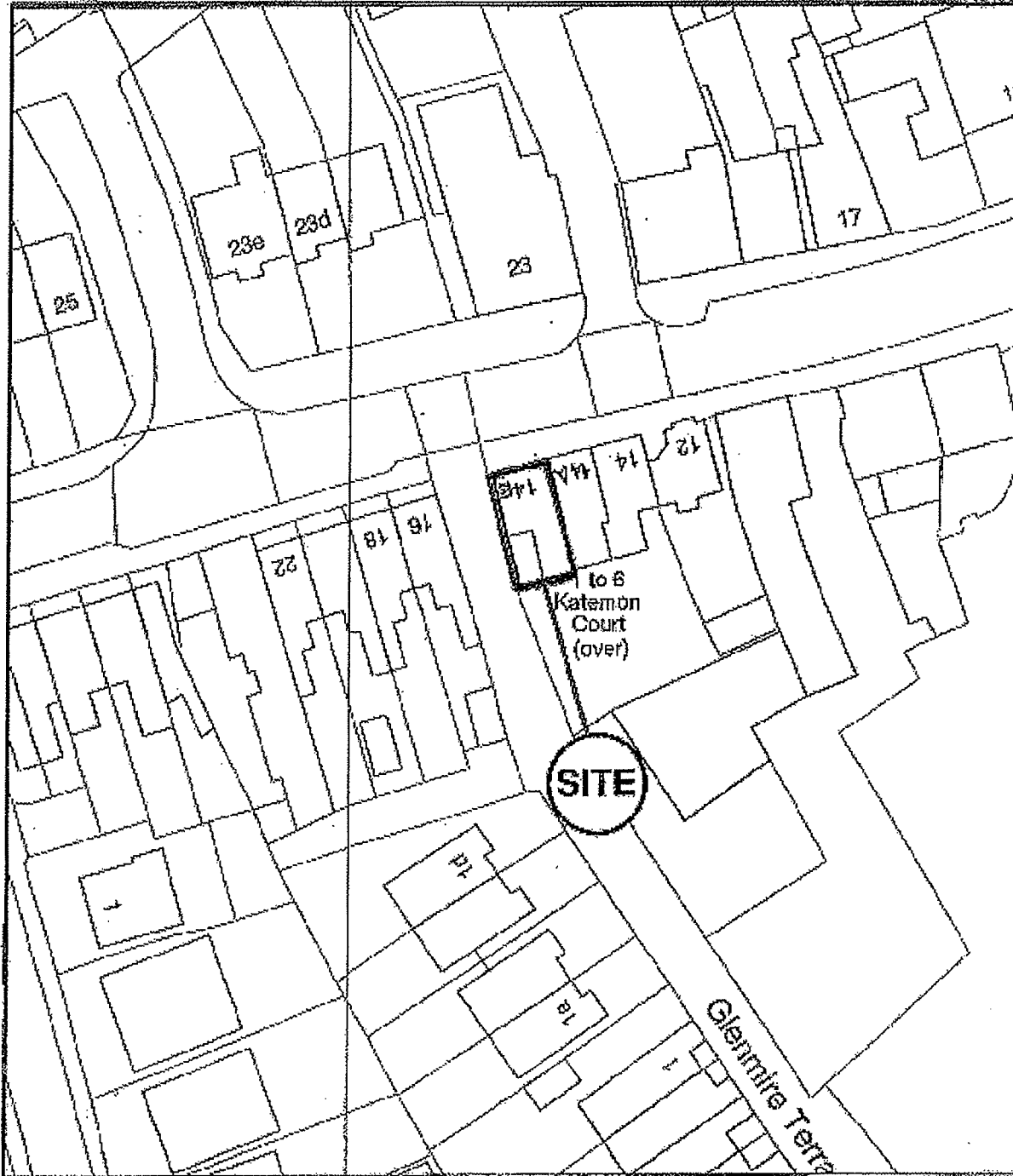
Appeal Ref: APP/J1915/C/09/2118513
14B High Street, Stanstead Abbots,
SG12 8AB.

The Planning Inspectorate
4/11 Eagle Wing
Temple Quay House
2 The Square
Temple Quay
Bristol BS1 6PW

☎ 0137 372 6372
email:enquiries@piins.gsi.gov.uk

Scale:

1:500





Appeal Decision

Site visit made on 19 February 2010

by **Isobel McCretton** BA(Hons) MRTPI

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

The Planning Inspectorate
4/11 Eagle Wing
Temple Quay House
2 The Square
Temple Quay
Bristol BS1 6PN

☎ 0117 372 6372
email: enquiries@pins.gsi.gov.uk

Decision date:
26 February 2010

Appeal Ref: APP/J1915/H/09/2115957

Barlicious, 55 South Street, Bishops Stortford CM23 3AL

- The appeal is made under Regulation 17 of the Town and Country Planning (Control of Advertisements) (England) Regulations 2007 against a refusal to grant express consent.
- The appeal is made by D Christopoulos against the decision of East Hertfordshire District Council.
- The application Ref.3/09/0886/AD, dated 10 June 2009, was refused by notice dated 16 September 2009.
- The advertisement proposed is 2 illuminated vertical banner signs and one illuminated fascia board - retrospective.

Decision

1. I dismiss the appeal.

Main Issue

2. The main issue is the effect of the display on the character or appearance of the Bishops Stortford Conservation Area.

Reasons

3. The site is within the Bishops Stortford Conservation Area and so, in reaching my decision, I have paid special attention to the desirability of preserving or enhancing the character or appearance of the Conservation Area.
4. The 2 vertical banner signs and the fascia board have already been installed at first floor level and, together, are lit by 3 of the 5 uplighters which are in place along this elevation. There is another banner sign over the door to the premises but this does not appear to be part of this application.
5. This is a prominent corner site. Despite the setback of the building behind the properties to the south, the signs are highly visible in the street scene, especially from the opposite side of the road and in the approaches from the north. Although this a busy commercial area where a certain level of signage is to be expected, I consider that the proliferation of signs on the upper floor of the building, well above the main commercial frontage, detracts from the visual amenity of the Conservation Area so that its appearance is not preserved. The harm is exacerbated by the fact that, although the first floor of the building projects beyond the ground floor shops, in some views the signs are also seen along with the fascia signs on the ground floor.

6. Policy BH15 of the Local Plan¹ sets out criteria which signs in conservation areas should meet if they are to be accepted. Neither the banners nor the fascia sign displayed at the appeal premises comply with these requirements in that they are not painted or individually lettered in a suitable material of an appropriate size and design in relation to the building, they are illuminated (albeit with uplighters) and are not traditional fascia/hanging signs. This reinforces my view as to the unacceptability of the signs.
7. The appellant argues that there is a need for the signs to advertise the business which is on the first floor of the building. However in my view this does not justify the number and type of signs displayed. In any event the Advertisement Regulations require that I must determine this appeal solely with regard to the impact of the signs on amenity and public safety.
8. For the reasons given above I conclude that the display of the signs is detrimental to the interests of amenity and does not preserve the character or appearance of the Conservation Area.

Isobel McCretton

INSPECTOR

¹ East Herts Local Plan Second Review April 2007



Appeal Decisions

Site visit made on 15 February 2010

by **M A Champion BSc CEng FICE**
FIStructE FIHT FHKIE
an Inspector appointed by the Secretary of State
for Communities and Local Government

The Planning Inspectorate
4/11 Eagle Wing
Temple Quay House
2 The Square
Temple Quay
Bristol BS1 6PN

☎ 0117 372 6372
email:enquiries@pins.gsi.gov.uk

Decision date:
3 March 2010

Appeal A: APP/J1915/C/09/2115018 50 The Elms, Hertford, SG13 7UX.

- 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 Ian McElligott against an enforcement notice issued by East Hertfordshire District Council.
- The Council's reference is E/09/0173/B.
- The notice was issued on 7 October 2009.
- The breach of planning control as alleged in the notice is:
Without planning permission the construction of decking to the rear terraced garden and alterations to the rear fence.
- The requirements of the notices are:
Demolish and remove the unauthorised decking and fence from the site and return the site to its previous state.
- The period for compliance with the requirements is three months.
- The appeal is proceeding on the grounds set out in section 174(2) (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.

Appeal B: APP/J1915/A/09/2114986 50 The Elms, Hertford, SG13 7UX.

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
- The appeal is made by Mr Ian McElligott against the decision of East Hertfordshire District Council.
- The application ref: 3/09/1014/FP, dated 23 June 2009, was refused by notice dated 28 August 2009.
- The development proposed is decking and supports to level out garden, raise fencing to surround.

Summary of Decision: The appeal is dismissed.

Appeal B

Reasons

1. I consider that the main issues are the effect of the development on: firstly the character and appearance of the surrounding area; and secondly, the living conditions of neighbouring residents with particular regard to visual impact, overlooking and privacy.
 2. Saved Policies ENV1, ENV5 and ENV6 of the East Herts Local Plan Second Review 2007 deal with design and environmental quality, and extensions to dwellings.
 3. The appeal site lies on the edge of a residential area with the rear boundary facing open space and woodland beyond which are industrial buildings and a
-

main road. It comprises a house and garden at the head of one of the cul-de-sac branches of The Elms. The house is the end one in a group of three in The Elms, but which continue a longer line of housing in the neighbouring Magnolia Close. Ground levels fall steeply away towards the rear in the gardens of these houses.

4. While some residents have used decking, this has generally been at a lower level commensurate with terracing of the sloping parts of their rear gardens. Although there is a tall conifer hedge between Nos 48 and 46, thus limiting views of the development from neighbouring sites, this hedge is outside the appellant's control and could be removed at any time.
5. A large area of decking has been constructed in the rear garden of the appeal property at the level of the approximately horizontal area close to the house. The decking, which is supported on timber framing up to about 2.4 metres high, occupies the full depth and width of the sloping part of the garden; the boundary fences have been raised around it.
6. While I acknowledge that the surrounding woodland would offer some screening in summer, I observed that the structure is highly visible in winter from the open space to the south and east of the site. By reason of its height and bulk it appears, I consider, as a prominent, massive structure that extends the built development at a high level over the steeply sloping ground into the woodland below. It is at odds with its surroundings, and harmful to their character and appearance.
7. Having regard to the height and extent of the elevated platform along the boundary with No 48, I consider that it has an overbearing visual impact on the the residents of that property. Additionally, views of the garden and rear windows of No 48 can be obtained from the platform, significantly reducing the privacy of those residents.
8. Although the appellant has some hedging that restricts overlooking of neighbouring gardens, that part of the hedge furthest from the house is still young and will take time to mature to a density sufficient to restrict overlooking. Moreover this hedging is within the appellant's control, and while he may not wish to remove it himself, future occupiers could choose to do so.
9. I conclude therefore that the development has a significant adverse effect on the character and appearance of the surrounding area, as well as on the living conditions of the residents of No 48 by way of an overbearing visual impact and loss of privacy, contrary to Policy ENV1.

Appeal A ground (f)

10. This ground of appeal is that the steps required to comply with the notice are excessive and that lesser steps would overcome the objections. The appellant states that the height of the structure could be reduced, temporary screening could be erected to ensure privacy until the conifer hedge has grown, and part of the decking could be removed.
11. While temporary screening could overcome the objection due to overlooking and loss of privacy, it would not address the harm caused to character and

appearance and could increase the adverse effect. No details of any proposed screening have been submitted.

12. Reduction in height would necessitate lowering of the decking and fencing, which could go some way to meeting both objections. Removal of part of the decking, together with the associated raised fencing, could also achieve this. However in the absence of any details of the size, extent or levels of these proposed amendments I am unable to determine whether these lesser steps would overcome the objections totally. The appeal on ground (f) fails.

Appeal A ground (g)

13. This ground of appeal is that the period specified in the notice falls short of what should reasonably be allowed. The appellant seeks 4-6 months due to work commitments, the weather conditions and the technicality of the structure.
14. The structure appears to be simply constructed from timber, and no evidence has been presented of any particular complexity or the need for any specialised equipment. Additionally the weather may reasonably be expected to improve over the next few months. In my opinion three months should be sufficient for compliance with the requirements. Moreover s173A(1)(b) of the Act enables the local planning authority to extend the period specified at its discretion. The appeal on ground (g) fails.

Conclusions

Appeal A

15. For the reasons given above I conclude that the appeal should not succeed. I shall uphold the notice.

Appeal B

16. For the reasons given above I conclude that the appeal should be dismissed.

Formal Decision

Appeal A

17. I dismiss the appeal and uphold the enforcement notice.

Appeal B

18. I dismiss the appeal.

M A Champion
INSPECTOR



Appeal Decision

Site visit made on 8 March 2010

by **Peter J Golder** Dip TP MRTPI

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

The Planning Inspectorate
4/11 Eagle Wing
Temple Quay House
2 The Square
Temple Quay
Bristol BS1 6PN

☎ 0117 372 6372
email:enquiries@pins.gsi.gov.uk

Decision date:
11 March 2010

Appeal Ref: APP/J1915/D/10/2120821 7 Matching Lane, Bishops Stortford CM23 2PP

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
- The appeal is made by Mr Marcus Bull against the decision of East Hertfordshire District Council.
- The application Ref 3/09/1787/FP, dated 5 November 2009, was refused by notice dated 23 December 2009.
- The development proposed is a replacement double garage.

Decision

1. I dismiss the appeal.

Main issue

2. The main issue in this appeal is the effect of the proposed garage upon the character and appearance of Matching Lane.

Reasons

3. The appeal proposal is the most recent of a series of schemes which have been refused planning permission at No 7; the previous one of which was dismissed on appeal. This was for a forward projecting extension to form a double garage with games room in the roof space and linked to the existing house. The current proposal is for a free standing double garage, similarly positioned as I understand it to the previous scheme, and the conversion of the existing integral garage to a games room. The dimensions of the garage are put at 6.35m wide and 5.5m deep. The Design and Access Statement states the height to ridge being 4.2m while the Council describes it as 3.7m. I have not seen the previous scheme but assume the current proposal to be of smaller dimensions on the basis that no accommodation is proposed for the roof area which would be formed as a relatively shallow pyramidal shaped structure.
 4. Matching Lane is an enclave of sizeable detached houses closely spaced one with another and set back from the road behind what are generally mature landscaped front gardens. The front garden of No 7, with the extended side elevation of No 8, forms the focus of views down the gradual slope of the Lane for some way. From this direction the mature vegetation comprising the cooper beech boundary hedge at No 7 (not conifers as stated on the application drawings), the shrubbery either side of the driveway to Nos 8 and 9 and the trees beyond form an attractive landscape setting for the dwellings around the head of the cul-de-sac.
-

5. The proposed garage, which would be conspicuously sited in views along much of the Lane from the point where it bends to the east, would take up a substantial part of the front garden area of No 7 and project significantly well forward of the front elevation of No 8. Being canted to align with the common boundary between Nos 7 and 8 would emphasise its visual bulk in views along the cul-de-sac. In my judgement the garage would be a particularly dominant feature in these circumstances and one which it would not be practically possible to assimilate into the established landscape setting around it if it is to have an open forecourt and be accessible for vehicles. Contrary to the views of the appellant I believe it would be an unduly prominent feature in the street scene and one which would be very intrusive in the landscape framework and pleasant relationship of buildings and vegetation around the head of the cul-de-sac which make a significant contribution to the character and appearance of the Lane. Consequently I consider one of the more distinctive features of the cul-de-sac would be harmfully eroded as a result of a garage being constructed here rather than it bringing about an improvement as the appellant claims.
6. For these reasons I consider the proposal to be in conflict with policies ENV5 and ENV6 of the East Herts Local Plan Second Review April 2007 which among other matters require extensions not to detrimentally affect the character and appearance of their settings. In conclusion therefore I regard the proposal as unacceptable and that this appeal should be dismissed.
7. In coming to my decision I have had regard to all other matters raised in the representations, including the recently constructed garage at 42 Maze Green Road, which has access from Matching Lane. The siting of this garage both in relation to the street and its host property, its context and its prominence in views is fundamentally different from the proposal before me and I find nothing about this example to act in favour of the appeal scheme or to justify setting aside the harm which I consider it would cause.

Peter J Golder

INSPECTOR