
Appeal Decision

Site visit made on 10 August 2016

by Grahame Kean B.A. (Hons), PgCert CIPFA, Solicitor HCA

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

Decision date: 21 September 2016

Appeal Ref: APP/N5090/C/16/3141637

304 Ballard's Lane, London N12 0EY

- 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 Reza Paul Panahi against an enforcement notice issued by the Council of the London Borough of Barnet.
 - The notice was issued on 2 December 2015.
 - The breach of planning control as alleged in the notice is without planning permission the construction of a wooden canopy extension to the front elevation of the property.
 - The requirements of the notice are:
 1. Demolish the single storey front canopy extension
 2. Permanently remove all constituent materials from the property resulting from the works in 1. above.
 - The period for compliance with the requirements is two months after this notice takes effect.
 - 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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Summary of Decision

1. The appeal is dismissed and the enforcement notice is upheld with a variation.

Preliminary Matter

2. I saw from my visit that there was a permanent single storey front extension to the shop, with a finished floor, wall base, entrance door, windows, external lighting and large conspicuous signage around the upper parts. Materials used included wood, glass and steel. The unauthorised structure is described in the notice as a "wooden canopy extension". Although "canopy" usually refers to an overhead structure that is removable or at least seen as a separate element, it is understood that an outside forecourt seating area was formerly enclosed behind a small wall, and a later timber and glass structure, presumed to be the canopy extension, was superimposed. However, given the materials used, in the interests of certainty and enforceability, and since to do so would not cause prejudice to the main parties, I will vary the notice to omit "wooden" from the description of the breach of planning control.
 3. The walled base of the extension varies in height due to the gradient of the forecourt, although I could not tell, and the evidence does not confirm whether the "canopy" has been erected over the original wall, or whether it has been replaced or altered to facilitate the erection of the extension. Nevertheless from what I have seen and read it is reasonable to infer that the notice is directed at the mainly wood and glass superstructure above the wall which
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does not in any event exceed the 1m height permitted under The Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended). Whether the finished floor was part of the former sitting out area is also unclear but in any event the breach of planning control alleged in this notice cannot reasonably be interpreted as directed to such works.

Ground (a) and the deemed application for planning permission

Main Issue and Reasons

4. The main issue is the effect of the front extension on the character and appearance of the host property and the street scene. 304 Ballard's Lane is occupied by a retail shop in use as a patisserie/coffee shop at ground floor level with flats above. It is in a shopping parade with Class A1 and A3/A5 uses at ground floor level and residential above. All the commercial units in the parade have forecourts between the main elevations of the buildings and the footway.
5. I have had regard to relevant policies of the development plan that includes Barnet's Local Plan: *(Core Strategy) Development Plan Document 2012 (CS)* and Barnet's Local Plan: *(Development Management Policies) Development Plan Document 2012 (DMP)*. The extract provided from Design Guidance No 10: *Shopfronts Summary (SPD)* does not deal specifically with forecourt extensions, but is relevant as it encourages shop front designs that relate well to the local street scene.
6. Enclosure of forecourts can add interest and vitality to the street scene. Nos 316 to 330 form a discrete continuous block of front extensions which all project the same length from the front elevations. The retail and commercial fronts thus created are an established and positive feature of the locality but they do not relate so much in visual terms to the adjoining part of the parade, Nos 302 to 314, of which only No 312 and the appeal premises have a front extension. They do not therefore form a precedent for the canopy extension.
7. The extension at the appeal site is isolated and an incongruous feature of the immediate street scene where forecourts are characterised by a lower and open level of activity such as storage, signage, or open seating area. This latter use (at No 308) would have been complemented in a positive manner by the former use of the appeal forecourt. The effect of the extension may be to improve customer levels but I do not agree with the appellant that in overall terms it would improve the viability or vitality of the parade: due to its dominant and visually intrusive impact, it detracts from the established character and appearance of this part of the parade, including, not least due to its large, conspicuous signage, the host property.
8. Furthermore the extension obstructs views of the shop unit at No 302 preventing public views of the premises when travelling south on Ballard's Lane. Although the effect on trade and anti-social behaviour resulting from the use of the appeal premises is not a relevant matter in this appeal, the location of No 302 at the end of the parade has resulted in the extension effectively blocking it off, thus undermining the character of the retail community.
9. Overall the design of the canopy extension, including its size and location results in a visually intrusive and dominant feature in the street scene, causes substantial harm to the character and appearance of the host property and its immediate surroundings. The harm is contrary to SPD, CS Policy CS5 and DMP

Policy DM01. These policies seek among other matters to ensure development respects local context and distinctive local character, having regard to scale, mass, height and pattern of surrounding buildings, spaces and streets. The policies are in line with the support given to high quality design in Section 7 of the National Planning Policy Framework. The appeal on this ground therefore fails.

Ground (g) – that the time given to comply with the notice is too short.

10. The Appellant contends that 2 months is insufficient time to organise and undertake the complete demolition of the structure and remove all items resulting from the demolition. Given this and the costs involved to undertake the works and the disruption to his business a period of 6 months is requested to comply with the notice.
11. There is no evidence to suggest that particular difficulties would be encountered either from a physical or financial point of view, in what would be a straightforward demolition of the superstructure and removal of its constituent parts. The unauthorised development continues to be a harmful influence on the character and appearance of the area and it is expedient to remove it as soon as practicable. The sooner it is removed the sooner the appellant can return his business to normal. In all the circumstances a period of two months should be an adequate period within which to complete the works. The appeal on this ground therefore fails.

Overall Conclusion

12. For the reasons given above I conclude that the appeal should not succeed. I shall uphold the notice with a variation and refuse to grant planning permission on the deemed application.

Formal Decision

13. It is directed that the enforcement notice be varied by the deletion of “wooden” from the description of the breach of planning control. Subject to this variation the appeal is dismissed and the enforcement notice is upheld, and planning permission is refused on the application deemed to have been made under section 177(5) of the Act as amended.

Grahame Kean

INSPECTOR