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## Appeal Decision

Site visit made on 13 December 2016

**by Chris Preston BA(Hons) BPI MRTPI**

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

**Decision date: 29 December 2016**

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**Appeal Ref: APP/M5450/C/16/3158159**  
**34 Kenton Park Parade, Harrow HA3 8DN**

- 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 Rainbar Limited against an enforcement notice issued by the Council of the London Borough of Harrow.
  - The Council's reference is ENF/0240/16/P/5014. The enforcement notice was issued on 29 July 2016.
  - The breach of planning control as alleged in the notice is: Without planning permission, the construction of a canopy structure with attached wooden seating on the forecourt of the Land.
  - The requirements of the notice are: 5.1 Demolish the unauthorised development; 5.2 Make good any damage to the forecourt and previously existing front façade of the building sustained as a result of the removal of the unauthorised development; and 5.3 Remove from the Land all material and debris arising from compliance with the above steps.
  - The period for compliance with the requirements is three (3) calendar months from the date the notice takes effect.
  - The appeal is proceeding on the grounds set out in section 174(2) (a) and (f) of the Town and Country Planning Act 1990 as amended.
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### Decision

1. 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.

### The Appeal on Ground (a)

2. The main issue in the determination of the appeal on ground (a) is the effect of the development on the character and appearance of the area.
  3. The appeal site is located within Kenton Park Parade, which is, as the name suggests, a parade of shops situated on the busy Kenton Road. The parade appears to date from the early part of the twentieth century and was clearly designed to accommodate retail and service uses at ground floor level with residential accommodation at first floor level and within the roof space. Attractive brick pilasters mark the side of each shop front terminating in rendered capitals which delineate the original depth of the fascia signs above the shops. Due to the way in which the row is designed, the shop fronts generally retain the proportions from that original design, with one or two exceptions.
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4. The original shop fronts were of a regular width, with three first floor windows above each unit and a centrally placed dormer window within the roof, directly above the centrally placed first floor window. Thus, the width of the shops, depth of the fascia signs, the detailed pilasters and the fenestration above combine to create an attractive symmetry within the row. Those features significantly enhance the character of the block and, by and large, the form and function of the original design are still apparent. In addition, the open forecourt to the front of the units provides a wide boulevard for pedestrians, a feature that enhances the character area.
5. The front canopy and seating area is completely at odds with the established character, as described above. The canopy extends across the full width of the shop and is attached to the brick pilasters at each side of the unit such that those attractive features are partially obscured from view. The structure extends forward from the shop front, across the privately owned forecourt, up to the back edge of the public pavement. It is a substantial structure having a timber frame, plastic sheeting on the shallow pitched roof and plastic gutters and downpipes which deposit rainwater directly onto the pavement. The wooden benches appear to be integral to the design and are fixed in position around the perimeter and electric strip lights are situated on the underside of the roof.
6. The structure has an air of permanence and its size is such that the proportions of the original shop front have been obscured when viewed from the public domain. Whilst the canopy is open sided, the benches and advertising boards that have been attached create a sense of enclosure and the structure is extremely prominent when passing along the parade due to its scale and projection from the shop front. The materials used, particularly the plastic sheeting and rainwater goods, are at odds with the attractive brick detail of the host building. Therefore, due to its scale, design and materials, the canopy appears as an extremely incongruous addition to the row, particularly in the context of the high degree of regularity and symmetry in the original design. That symmetry is abruptly punctured by the presence of the development.
7. Similarly, the enclosure of the forecourt is out of character with the prevailing character of the parade which benefits from a wide pedestrian thoroughfare. The appellants have referred to two other projecting canopies within the row in support of their case. However, the Council has served enforcement notices in relation to those canopies seeking the demolition of the structures. I am not aware that any appeals have been submitted against those notices and it is not certain that they will remain in situ in the light of the action being taken.
8. Regardless of that point, the presence of harmful development elsewhere does not justify the approval of a development that would create further harm. Paragraph 64 of the National Planning Policy Framework (the Framework) identifies that planning permission should be refused for poor design that fails to take the opportunities available for *improving* (my emphasis) the character and quality of an area and the way it functions.
9. For the reasons given, I consider that the development represents poor design that has caused significant harm to the character and appearance of the building and the surrounding area. The development is contrary to the aims of section 6 of the Framework, which seeks to secure good design, and the aims of Policies 7.4B and 7.6B of the London Plan (2015), policy CS1(B) of the

Harrow Core Strategy (2012) and policies DM1(A&B) and DM4(A(a)) of the Harrow Development Management Policies Local Plan (2013).

#### *Other Matters*

10. I have noted representations from the owner of the neighbouring retail unit at No. 33 Kenton Park Parade, a unit that is presently in use as a shoe shop. It is alleged that the canopy will have a negative effect upon the neighbouring unit as a result of the restriction in views of the shop front and fascia sign as one moves past the parade, either on foot or by car. Having viewed the development on site it is clear that the canopy encloses the space on the forecourt and that enclosure undoubtedly blocks views of the neighbouring shop when moving towards it in a westerly direction.
11. It seems to me that the reduction in the visibility of the neighbouring shop front and the restriction in free movement along the forecourt are negative factors from the point of view of advertising wares and encouraging footfall. Those matters could well have an adverse effect on the viability of the retail unit in question and cause harm to the vitality of the parade, even if to a small degree. That harm is a matter that adds weight to my concerns relating to the harm to the character and appearance of the area.
12. For the reasons given, I conclude that the appeal on ground (a) should not succeed and planning permission should not be granted for the development.

#### **The Appeal on Ground (f)**

13. An appeal made under ground (f) is made on the basis that the steps required by the notice are exceed what is necessary to remedy the breach of planning control or, as the case may be, the injury to amenity that has been caused by the breach. In this case, the Council is seeking the demolition of the structure in its entirety and has confirmed that the aim of the notice is to remedy the breach of planning control.
14. No planning permission exists for any alternative form of development and no suggestion has been put forward as to how the structure could be modified in a way that would make it acceptable in planning terms, such that planning permission could be granted for part of the development under ground (a), having regard to the powers available to me under section 177(1)(a) of the Town and Country Planning Act 1990. Consequently, no lesser steps have been suggested that would remedy the breach of planning control and the appeal on ground (f) must fail.

#### **Overall Conclusion**

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

*Chris Preston*

INSPECTOR