The Planning Inspectorate

Appeal Decision

Site visit made on 13 March 2017

by G J Fort BA PGDip LLM MCD MRTPI

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

Decision date: 31 March 2017

Appeal Ref: APP/X5210/W/16/3165786
283-285 West End Lane, London NW6 1RD

- 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 Daniel Kattan against the decision of the Council of the London Borough of Camden.
- The application Ref 2016/2017/P, dated 5 July 2016, was refused by notice dated 17 November 2016.
- The development proposed is a raised timber decking and enclosure serving the outdoor seating area.

Decision

1. The appeal is allowed and planning permission is granted for a raised timber decking and enclosure serving the outdoor seating area at 283-285 West End Lane, London NW6 1RD in accordance with the terms of the application, Ref 2016/2017/P, dated 5 July 2016, subject to the following condition:

    1) The development hereby permitted relates to the following approved plans: Existing-Location plans ALHSE-L001; Existing-Front and Side Elevation: ALHSE-E001; Existing-Section AA' ALSHE-S001; Existing-Section BB' ALSHE-S002; Existing-Ground Floor ALSHE-P001.

Procedural Matters

2. The appeal follows the refusal of a retrospective application for planning permission. I saw at my site visit that the development as described above was in situ and I have considered the appeal on this basis. However, as retention does not constitute development for the purposes of the Town and Country Planning Act 1990 (as amended), I have omitted the phrase "retrospective application for the retention" from the description given in the banner heading above.

3. I was supplied with two application forms relating to the same appeal scheme, one dated 8 April 2016, and the other dated 5 July 2016. I have used the latter date as this form has a correctly completed Certificate B.

Main Issues

4. I consider the main issues in this appeal to be firstly, whether the development preserves or enhances the character and appearance of West End Green Conservation Area; and secondly, the effects of the development on highway safety.

Reasons

Character and appearance

5. The appeal building is located in the West End Green Conservation Area, and is part of a terrace of buildings in mixed use including commercial and residential units. Of four storeys, the appeal building contains a public house at ground floor and is located on a prominent site at the junction of West End Lane and Inglewood Road, its scale and presence is accentuated by the tall domed roof at its corner. Part of the corridor of development along the spine of West End Lane, the appeal building is typical of the area's metropolitan suburban character and part of a planned Victorian and Edwardian design aesthetic from which the significance of the Conservation Area derives to a considerable degree.

6. The appeal development has introduced raised timber decking and a timber boundary treatment to the front of Nos 283-285 inset from the corner of the building but along the length of its West End Lane frontage.

7. The boundary of the appeal development is more or less on the same line as the historic boundary treatments of its neighbouring properties. It is also of a similar height to these neighbouring boundaries. I saw that similar materials had been employed in boundaries of a scale like that of the appeal development elsewhere within the block, and that these provide a clear context for the scheme. Consequently, the appeal development does not read as an incongruous or discordant feature within the streetscene. Whilst I am mindful that other structures in the area may not benefit from planning consent, a lack of substantive evidence in these regards limits the weight that I can attach to this consideration.

8. The appeal building is of considerable scale and as a result the limited and subservient scale and depth of the appeal development does not diminish the building's presence in the streetscene. As a consequence, the appeal development does not undermine the architectural character of the appeal building to any degree, and does not erode its positive contribution to the character, appearance or significance of the Conservation Area.

9. For the reasons given above, and mindful of my duty arising from section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990, I consider that the development preserves the character and appearance of the West End Green Conservation Area. It follows that the development thus does not conflict with Policies 2 and 3 of the Fortune Green and West Hampstead Neighbourhood Plan (the Neighbourhood Plan); or Policies CS5 and CS15 of the Camden Core Strategy (the Core Strategy); or Policies DP24 or DP25 of the Camden Development Policies (the Development Policies). Taken together, and amongst other things, these policies seek to ensure that new developments preserve the character and appearance of the West End Green Conservation Area.

Highway Safety

10. The commercial and other uses in the environs of the appeal building drive footfall along West End Lane. Immediately in front of the appeal site there is an uncontrolled pedestrian crossing, and zebra crossings across West End Lane

are close to the appeal site in either direction. At the time of my afternoon site visit, admittedly only a snapshot, I observed a steady stream of vehicular traffic, which due to the nature of the road and presence of crossings in the environs of the appeal site moved through the area at relatively low speed. I observed a considerable amount of pedestrians walking along the pavement in front of the appeal building, and I saw people using the uncontrolled crossing there. Given the contents of the parties' submitted evidence I have no reason to conclude that what I observed was an unusually high level of footfall or vehicular traffic through the area.

11. I note that due to the appeal development the width of the pavement falls below the technical standards given in Transport for London's Pedestrian Comfort Guidance, and would conflict with Policy 9 of the Neighbourhood Plan in this respect. However, the appeal development more or less continues the established line of front boundary treatments of its near neighbours. This means that the footway is of a similar width along a considerable proportion of the length of the block, and as a result, pedestrian flows are already directed along that part of the pavement. Moreover, the footway is free from street furniture and obstructions at the front of the appeal property.

12. During my visit I observed people with prams passing each other adjacent to the appeal site, as well as groups of people walking three abreast. I saw no-one straying into the road as a result of passing pedestrians coming the other way in front of the appeal building. I also saw that people using the uncontrolled crossing were not prevented from accessing the pavement in front of the appeal site by people using the footway, and did not cause undue obstruction of the footway when waiting to cross. These observations, taken together with the site specific aspects outlined above lead me to the view that the appeal development does not result in a pavement that is too narrow for pedestrians, those with push chairs or anyone in a wheel chair. It is therefore reasonable to conclude that the appeal development does not inconvenience pedestrians and other road users to a degree that would be of material harm to their safety or amenity. The lack of harm caused by the development in these respects justifies a departure from Policy 9 of the Neighbourhood Plan in this instance.

13. For these reasons, the appeal development causes no harm to highway safety. The appeal development would thus not conflict with Policy CS11 of the Core Strategy; or Policies DP16 and DP21 of the Development Policies. Taken together, and amongst other things, these policies promote sustainable travel and seek to ensure that developments are properly integrated with the transport network and do not hinder pedestrian movement or cause harm to highway safety.

Other Matters

14. I note that some of the site may not be in the appellant's ownership, and that as a result, a stopping up order may be required. However, this is a private matter that is not instrumental in a planning decision of this nature.

Conditions

15. I have not been supplied with a list of suggested conditions by either party. However, in the interests of certainty I have attached a condition which specifies the approved plans.

Conclusion

16. The appeal development conflicts with Policy 9 of the Neighbourhood Plan in terms of the width of pavement achieved in front of Nos 283-285. However, the lack of harm caused to highway safety as a result of this is a material consideration that justifies a departure from that policy in this instance.

17. In all other respects, the appeal development does not conflict with the development plan insofar as the policies that have been drawn to my attention are concerned. Accordingly, for the reasons given above, and having regard to all other matters raised, the appeal should succeed.

G J Fort

INSPECTOR