
Appeal Decision

Site visit made on 11 April 2017

by Simon N Hand MA

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

Decision date: 21 April 2017

Appeal Ref: APP/T5150/C/17/3167434
428 High Road, Wembley, HA9 6AH

- 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 Ziad Kia against an enforcement notice issued by the Council of the London Borough of Brent.
 - The enforcement notice, numbered E/16/0275, was issued on 13 December 2016.
 - The breach of planning control as alleged in the notice is without planning permission the erection of a front extension to the premises.
 - The requirements of the notice are STEP 1 – Demolish the unauthorised front extension and restore the shopfront back to its original condition before the unauthorised development took place. STEP 2 – Remove all debris, materials and items associated with the unauthorised extension from the premises.
 - The period for compliance with the requirements is 3 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.
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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 this appeal is the impact of the development on the streetscene and on the neighbouring shop unit to the west.
3. No 428 is a double fronted shop unit on the northern side of High Road that houses a supermarket. A timber extension has been constructed across the entire front of the shop. This consists of a timber frame and solid sides with an open front, housing displays of fruit and veg. These displays are situated on permanent lockers which presumably allow for secure storage once the supermarket is closed.
4. There are numerous examples of other shops and particularly restaurants and cafes in the same area that occupy the pavement frontage in a similar fashion. However, as far as I could see, these were all at best semi-permanent. The various cafes nearby had seating on the pavement, separated from the pedestrians by planting in boxes or screened off by wooden partitions. Despite the seeming permanence of these structures they were no higher than the back of a chair and retained the sense of the open street frontage. They were covered by the retractable canopy of the unit in question. Several other shops

- had displays on the footpath, also covered by retractable canopies, although the displays appeared as if they would be removed once the shop was closed.
5. I accept that some of these features would remain in place for 24 hours and most would be out for most of the daylight hours and into the evening, nevertheless, the differences between these displays and the appeal development, while subtle, are important. The obvious permanence of the appeal structure is quite different, with its solid sides and roof, anchored to the visually prominent wooden uprights, creating a strong sense of the entire shop having advanced forwards across the pavement, which looks and feels quite different from the rest of High Street. The solidity also masks the neighbouring, single fronted shop unit to the west, so that from along the pavement to the east it is entirely hidden from view until one has almost walked past the appeal premises. These features are harmful to the character of the streetscene contrary to DMP1(a) and to the neighbouring property contrary to DMP4A of the London Borough of Brent Local Plan 2016.
 6. The Council are also concerned the structure impedes pedestrians, but the pavement is wide and there is plenty of room for pedestrians to pass without hindrance. Similarly the impact on the neighbouring access to the east is minimal. However, I do agree that the proposal could set an undesirable precedent, as it is clear a large number of premises use part of the pavement for seating or display of goods. While this adds to the vitality of the shopping scene, should these become permanent structures that would lead to a cumulative change to the character of the area and a demand for more temporary displays in front of the now permanent structures, as I saw in front of the appeal premises on my site visit.
 7. The appellant has suggested replacing the timber sides and solid roof with a canvas or textile covering that would be removable. The Council object to my consideration of this proposal as it is not part of the allegation, nor has local businesses and residents had a chance to comment. However, I consider that the type of material used in the front extension is clearly part of the allegation and to consider a less permanent and intrusive solution would not prejudice the interests of locals, despite their lack of ability to comment on it. However, I do not consider the proposal, although a minor improvement, would overcome the objections I have found above to a permanent structure.
 8. The appeal on ground (a) fails. No other grounds have been raised and I shall dismiss the appeal and uphold the notice.

Simon Hand

Inspector