

## Appeal Decision

Site visit made on 10 April 2017

**by A U Ghafoor BSc (Hons) MA MRTPI**

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

**Decision date: 3 May 2017**

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**Appeal Ref: APP/T5150/C/16/3166305**

**201 Edgware Road, Kingsbury London NW9 6LP**

- 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 Act’].
  - The appeal is made by Mr M Solovastru against an enforcement notice issued by the Council of the London Borough of Brent.
  - The enforcement notice, numbered E/15/0749, was issued on 5 December 2016.
  - The breach of planning control as alleged in the notice is without planning permission, the installation of a canopy and side gate to the front of the premises.
  - The requirements of the notice are to:
    - (1) Remove the canopy and side gate from the front of the premises.
    - (2) Remove all associated items, debris, materials, and fixtures and fittings associated with the canopy and side gate.
  - The period for compliance with the requirements is 1 month.
  - 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.

### Ground (a)

2. The main issue is the effect of the development upon the character and appearance of the host building and that of the street scene.
  3. No. 201 is a three-storey terraced building with retail space at ground floor level and accommodation above. The street comprises similarly designed buildings in a mixed commercial and residential area. It is situated within a busy high street environment with a deep public footway, which allows the use of the area immediately adjacent as a forecourt.
  4. The shopfront alterations include installation of a canopy and side gate to allow the display of fresh fruit and vegetables on the forecourt. This allows potential customers to view products and adds colour to the frontage, given the attractive display of fruit and veg. I note the argument that the canopy replaced a previous awning and the side gate is a semi-transparent secure enclosure. The types of material however harm the external appearance of the host property because these do not complement its simple shopfront style. The design of the canopy and side gate does little to improve its appearance in this part of the commercial parade.
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5. There are examples of awning and canopies in the street. The Council say some of these are unauthorised and subject to separate enforcement action. Nevertheless canopies of different styles can be found in the vicinity. However, I consider that the shopfront alterations at no. 201 do not represent good architecture or high quality design, due to the design and overall projection of the canopy and side gate. The latter obstructs views of neighbouring buildings because of its size. I take the view that the development detracts from the architectural quality of the block and is inconsistent with the commercial and residential character of the area.
6. The canopy and side gate are out of keeping with the character of the locality and visually disrupt the building line. I therefore find conflict with the design aims of policies DMP 1 and DMP 4A of Brent's Local Plan 2016, and supplementary planning policy guidance no. 7: *Shopfronts & Shop Signs*.
7. Mr Solovastru considers that a split decision should be issued for either the canopy or side gate. In my assessment, both collectively and individually are unacceptable in planning terms because of their design and size. Furthermore, it is unclear whether the canopy and side gate are realistically physically severable.
8. For all of the above reasons, I conclude that the development has a materially harmful visual impact upon the character and appearance of the host building and that of the street scene.

### **Ground (f)**

9. From the wording of the whole document, the notice seeks to remedy that breach of planning control by restoring the land to its condition before the breach occurred. That purpose falls within s 173(4)(a) of the Act. Mr Solovastru needs to show that the steps specified in the notice exceed what is required to remedy the breach of planning control or, as the case may be, any injury to amenity caused by the breach.
10. Apart from the claim that the notice should be varied to allow retention of either the canopy or side gate, he has advanced no lesser step that can remedy the breach of planning control. I have evaluated the planning merits of issuing a split decision but find that to be unacceptable. In my planning judgement, the remedial purpose behind the notice's terms requires full compliance. Consequently, the appeal on ground (f) must fail.

### **Conclusion**

11. For all of the reasons given above and having considered all other matters, I conclude that the appeal should not succeed. I have upheld the enforcement notice and refuse to grant planning permission on the deemed application.

*A U Ghafoor*

Inspector