

Appeal Decision

Site visit made on 8 May 2017

by Janet Wilson BA (Hons) BTP MRTPI DMS

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

Decision date: 13th June 2017

**Appeal Ref: APP/T5150/W/17/3170361
673 - 675 Harrow Road, LONDON NW10 5NU**

- 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 Miss Kim Hawkins of Starham Ltd against the decision of the Council of the London Borough of Brent.
 - The application Ref 16/4833, dated 8 November 2016, was refused by notice dated 21 February 2017.
 - The development proposed is erection of 2.0m high metal railings and gate to enclose small forecourt area.
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Decision

1. The appeal is dismissed.

Procedural Matter

2. The fence and gate were in place at the time of my visit, I am therefore considering the appeal retrospectively.
3. The application proposes the railings as 2.0 metres high whereas the plans indicate 2.4 metres. On my site visit I judged that the fence and gate were higher than 2.0 metres but lower than 2.4 metres but this discrepancy is not determinative in relation to the conclusions I have reached.

Main Issues

4. The main issues are the effect of the proposal on: the character and appearance of the area; the heritage asset of the Grade II listed horse trough and the Kensal Green Cemetery wall; the living conditions of the occupiers of the adjacent flats.

Reasons

Character and appearance

5. The appeal relates to a piece of land between the garden of the Masons Arms public house and a four storey residential building. This is a mixed use area, there is a small commercial yard and a cemetery to the rear and a small local park and residential properties on the opposite side of the road. This mix contributes to a varied character around the site which, although on a busy main road, is mostly pleasant and attractive. The front edge to the Masons Arms garden has simple railings behind which is a listed horse trough, a
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combination of planting and trellis fencing with a small timber store located between the railings and the appeal proposal.

6. The fence and gate are utilitarian in terms of their materials and style. They are a different height to the adjacent fencing and set forward of the residential block which exacerbates their stark and severe appearance. Their lack of any finesse results in a poor visual presentation within the street scene and a failure to successfully integrate with their surroundings. This gives rise to an unacceptable visual impact on the site and its surroundings causing harm to the appearance of the area and detracting from its character.
7. It is appreciated that there are fences and walls of different heights and materials within the vicinity. I observed the high brick wall of the cemetery, and the security fencing adjoining Kensal Green Station as well as the varied enclosures along the frontage adjoining the appeal development itself. However, each situation is different and should be judged accordingly. In this case I have concluded that the combination of factors described above would result in an unsatisfactory outcome.
8. This is in conflict with Policy DMP 1 of the Brent Development Management Policies DPD (2016) (BDMP) which seeks amongst other things to ensure that materials, design and detailing of new development complements the locality, reinforces and respects the street scene and contributes to local distinctiveness.

Effect on heritage assets

9. The Grade II Listed horse trough is close, but not immediately adjacent, to the appeal scheme. It is now separated from the public realm by the railings of the Masons Arms and at the time of my visit it was partially overgrown with vegetation and screened from the garden by trellis fencing. Notwithstanding this the trough can still be seen from public viewpoints and is experienced as part of the street scene along Harrow Road.
10. The adverse impact on the character and appearance of the area that I have identified in my first issue would materially diminish the setting of the listed structure and therefore would harm its significance. The appeal scheme therefore conflicts with Policies DMP 1 and DMP 7 of the BDMP, which include provisions to ensure that proposals sustain and enhance the significance of heritage assets, including their setting, and respect and reinforce the street scene.
11. The Council has also referred to the effect of the proposed fence and gate on the setting of the wall of Kensal Green Cemetery. However, there are intervening uses of a car parking area and commercial yard between the two and visually very little of the boundary wall can be seen in the view from Harrow Road. In the circumstances the impact on this aspect is minimal.

Living conditions

12. Representations have been received stating that the development would create safety concerns for the security of the first floor accommodation in the adjoining flats as the fence could act as a ladder to access the balconies of the flats. Whilst recognising that there may be a possibility of incidents arising in connection with the arrangement of the fence close to the first floor balcony of the adjacent flats, to my mind these would be unlikely to be significant. There

is no evidence to demonstrate that the proposal would give rise to security concerns on the site.

13. In respect of general living conditions the enclosure of the yard would prevent the level of fly tipping which has taken place in the past and would, in this regard, improve the living conditions of the adjacent residential units.

Other Matters

14. The fencing allows only pedestrian access in to the site and to the yard at the rear. However, the information from the adjoining owner does not give any indication that there is a right for vehicles to cross the land in question even though this may have happened in the past. Clearly if such a right exists it would need to be resolved and this is a private matter between the appellant and the neighbouring landowner. If such a right does not exist then vehicles would have to park on the road to load and unload whether or not the appeal enclosure was in place. Whilst it is appreciated that this may not be an ideal arrangement it is an existing problem that is not caused as a direct result of the appeal proposal. The submitted drawing shows an inward opening gate and there is no reason why the pavement would be obstructed or pedestrians put at risk.
15. The appellant has advised that there is an intention to resolve the opposing views between the Council and themselves by the submission of a fresh planning application to revise the height, colour and treatment of the fencing and gate. This is for the Council to determine in the normal way and not a matter before me in this appeal.

Conclusion

16. The land behind the fence and gates has been the subject of fly tipping which resulted in the Council serving a notice under Environmental Health responsibilities. Not only was this unsightly but it also represented a health hazard. The enclosure of the site has been successful in stopping this antisocial activity and this is clearly a public benefit. On the other hand the appeal proposal causes unacceptable harm to the character and appearance of the area and the significance of the designated heritage asset. It seems likely that there are other more benign solutions to the problem but in this case the adverse effects outweigh the advantages.
17. In the light of the above and having regard to all other matters raised the appeal should be dismissed.

Janet Wilson

INSPECTOR