



Appeal Decision

Site visit made on 12 April 2018

by Andrew Dale BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 08 May 2018

Appeal Ref: APP/U5930/C/17/3179751

Ossies Catering Equipment, 206 Lea Bridge Road, London E10 7LN

- 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 driconsulting against an enforcement notice issued by the Council of the London Borough of Waltham Forest.
 - The enforcement notice was issued on 8 June 2017 under ref. 070975.
 - The breach of planning control as alleged in the notice is: *"Without planning permission, the installation of boundary railings and gate to the front of the property."*
 - The requirements of the notice are set out as follows:
 - "1. Remove the front boundary railings and gate;*
 - 2. Remove from the property all associated materials, detritus and general debris resulting from the works required by step 1 above."*
 - The period for compliance with these requirements is two months.
 - 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. The application for planning permission deemed to have been made under section 177(5) of the 1990 Act as amended falls to be considered.
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Decision

1. It is directed that the enforcement notice be corrected by: (i) deleting the text within paragraph 2 in its entirety and substituting therefor the following: *"Land at Ossies Catering Equipment, 206 Lea Bridge Road, London E10 7LN ("the Land")."* and (ii) omitting the plan attached to the enforcement notice.
2. Subject to the above corrections, the appeal is dismissed, the enforcement notice is upheld and planning permission is refused on the application deemed to have been made under section 177(5) of the 1990 Act as amended.

The enforcement notice

3. The plan referred to in paragraph 2 of the enforcement notice and attached to the enforcement notice is incorrect since it does not include the small forecourt of the appeal property where the boundary railings and gate have been installed. From reading the written representations, it would appear that the appellant has not been misled by the plan and that the forecourt is part and parcel of the land and property used by the business known as Ossies Catering Equipment.

4. An inaccurate plan can be deleted altogether, leaving the site described in words alone. To that end and to provide more clarity, I shall correct the enforcement notice by omitting the plan and including the text "*Ossies Catering Equipment*" in the site address at paragraph 2. I have found it easier to rewrite the text within paragraph 2 in its entirety. I am satisfied that these corrections would not cause any injustice to the parties.

Background and matters of clarification

5. This catering equipment shop occupies the ground floor of a two-storey terraced property which is located on the southern side of Lea Bridge Road next to its junction with Kettlebaston Road. There is a flat above the shop at no. 206A. The public entrance to the shop and the entrance door to the flat face onto Kettlebaston Road.
6. The once open forecourt to Lea Bridge Road has been provided with blue-coloured metal railings along its front boundary and along both of its side boundaries. There are several square-shaped support posts rising to about 2.35 m high above the level of the footways. The rounded railings are only slightly lower. The section facing Kettlebaston Road includes a roller shutter gate and the shutter box above is higher than the square-shaped support posts. I saw that this gate is used by staff to access the forecourt where a large assortment of catering equipment is stored, rising up to well over half the height of the railings.
7. There is some overlap between ground (a) and ground (f) in a case such as this. The appellant has suggested under both those grounds that the erected boundary enclosure the subject of the enforcement notice can be reduced to 1.2 m in overall height above ground level. I intend to deal with this alternative boundary structure first under ground (a) because it would be necessary to consider whether this outcome could be achieved on its planning merits by granting planning permission in relation to the whole or any part of the matters alleged in the notice, either with or without planning conditions.

The appeal on ground (a) and the deemed planning application

8. Having read the reasons given in the enforcement notice for its issue, the main issue in assessing whether planning permission ought to be granted concerns the effect of the boundary railings and gate upon the character and appearance of the host building and its surroundings.
9. The ground (a) appeal is first and foremost for the retention of what has been built and it is a telling point that the appellant's facts on the appeal form focus rather on the proposed reduction in height of the boundary structures. A suggestion is made that the enclosure was erected to prevent the unauthorised daily dumping of domestic waste bags and other rubbish. However, no evidence, such as photographs, is submitted to illustrate and confirm the extent of these problems. In any event, instead, what has now occurred is the unsightly and widespread storage of catering equipment on the forecourt, facilitated no doubt by the security and enclosure provided by the tall railings and roller shutter gate.

10. This side of Lea Bridge Road is characterized by a uniform pattern of short terraces with ground floor shops or commercial units in most of the end-of-terrace or corner properties. There are open forecourts to the corner properties at Lea Bridge Road's junctions with Seymour Road, Morieux Road and Bloxhall Road and another one in front of the vacant shop on the opposite side of the junction with Kettlebaston Road. The residential properties in the terraces in between the corner units have, by and large, brick front boundary walls, many of which are less than one metre high. All these features, added to the brick construction and attractive detailing of the terraced buildings, make for a locally distinctive street scene.
11. I saw that the boundary railings and gate, by virtue of the combination of their height, design, materials of construction and prominent siting, draw the eye, are visually unattractive and are not founded upon an understanding of the area's local context and character. The structures have a seriously disruptive effect upon the local street scenes, create an undesirable barrier and enclosure to the highways and mar the contribution the property's shopfront would otherwise make to the terrace and its surroundings. The development is an incongruous addition to the built environment. It is of poor urban and architectural design and fails to contribute to the distinctiveness of this neighbourhood.
12. Turning to the reduction in height to 1.2 m as proposed, no plan or elevation details have been submitted to clearly show what is intended. This does not seem to involve a change in materials or basic design. Simply lowering the structures I saw would do little to produce a development which harmonized with the host corner property or complemented the locality and street scenes. After all, the other commercial corner properties hereabouts exist without any form of barrier around the perimeter of their forecourts. Most of the adjacent dwellings have front enclosures below one metre high.
13. I have reached the view that planning permission should not be granted for the boundary railings and gate as built and as proposed to be modified since I have identified harm to the character and appearance of the host building and its surroundings. This conflicts with the relevant development plan policies cited by the Council, notably Policy CS15 of the Core Strategy, Policy DM29 of the Development Management Policies Local Plan and Policies 7.4 and 7.6 of the London Plan, insofar as these policies seek to ensure that new development incorporates a high standard of urban and architectural design, a sound understanding of local context and character and a strong recognition of local distinctiveness.
14. Section 7 of the National Planning Policy Framework (the Framework) requires good design. This has not been achieved. It goes on to indicate that permission should be refused for development of poor design that fails to take the opportunities available for improving the character and quality of an area and the way it functions. The matters alleged in the notice do not comprise sustainable development in the context of the Framework.

15. These objections to the development could not be overcome by the imposition of planning conditions. I find no material considerations of sufficient weight to indicate that the determination for this development should be made otherwise than in accordance with the development plan. I conclude that the appeal on ground (a) should fail and that planning permission should not be granted on the deemed planning application.

The appeal on ground (f)

16. The purpose of an appeal on ground (f) is to maintain that the steps required by the enforcement notice exceed what is necessary to remedy the breach of planning control or, as the case may be, to remedy any injury to amenity caused by that breach.
17. In this case, the main purpose of the notice's requirements is to remedy the breach of planning control by restoring the land to its condition before the breach took place in accordance with section 173(4) (a) of the 1990 Act as amended.
18. The modification suggested by the appellant in the form of a reduction in the height of the erected enclosure to 1.2 m has been considered under ground (a) where it was found that it would not fully overcome the harm identified. The absence of a fully worked-out proposal showing a practical alternative to demolition was also found to be something of a disadvantage.
19. Moreover, the main purpose of the notice's requirements I describe in paragraph 17 above can only be achieved by the complete removal of all of the unauthorised operational developments. I consider that the requirements of the enforcement notice are not excessive. I conclude that the appeal on ground (f) should fail.

Andrew Dale

INSPECTOR