



Appeal Decision

Site visit made on 11 April 2018

by Andy Harwood CMS MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 06 June 2018

Appeal Ref: APP/P5870/C/17/3180820

The land at 154 Beddington Lane, Croydon CR0 4TE

- 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 Steven Brown on behalf of Easymix Concrete Ltd against an enforcement notice issued by the Council of the London Borough of Sutton.
 - The enforcement notice was issued on 27 June 2017.
 - The breach of planning control as alleged in the notice is without planning permission the installation of rotary spikes on the top of the gate in the location shown as a blue line on the attached plan.
 - The requirement of the notice is to remove the rotary spikes from the gate in the location shown as a blue line on the attached plan.
 - The period for compliance with the requirements is 3 months.
 - The appeal is proceeding on the ground set out in section 174(2)(a) of the Town and Country Planning Act 1990 as amended. Since an appeal has been brought on ground (a), an application for planning permission is deemed to have been made under section 177(5) of the Act.
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Preliminary Matters

1. A Linked appeal (ref: APP/P5870/C/17/3180821) made against the same enforcement notice by Mrs Nicola Brown lapsed since the prescribed fee for the deemed planning application was not paid within the specified period.
2. The notice states that the alleged rotary spikes are on top of the gate. At the time of my site visit there were in fact 2 gates in the position indicated approximately by the blue line on the notice plan. Furthermore, the rotary spikes were no higher than the tips of the spiked metal pales. The development at the time of my visit was different to that described in the notice but it does not follow that the notice was incorrect on the date of issue. The Council and appellant have confirmed that the rotary spikes were re-positioned following the issuing of the notice.
3. While I have power of correction pursuant to enforcement notices under s176(1)(a) of the Act, these do not extend to changing the allegation so that it described development which has taken place since the notice was issued, in order that planning permission can then be granted for the new development. The ground (a) appeal must relate to the development said to be a breach of planning control in the notice.
4. The appellant has provided a photograph showing a section of fence elsewhere on the site which had rotary spikes on top of it. I am satisfied that this is likely to be representative of how the rotary spikes were previously positioned on the

gates. One of the gates was open and facing towards the street at the time of my visit and I could get a full view of the rotary spikes. I can, therefore, appraise for this appeal, the development as it existed when the notice was issued.

5. In order to make the notice more precise, however, it should be corrected so that the allegation and requirements refer to the gates (plural). The correction will serve to extend the scope of the notice but nevertheless it would cause no injustice to the appellant (or the Council). The appellant seems to have understood the allegation and it is clear from the plan attached to the notice that the Council intended to enforce against the rotary spikes attached to both gates.

The Appeal on Ground (a) and the Deemed Planning Application

Main Issue

6. The main issue is the effect of the development on the character and appearance of the appeal site and the surrounding street scene.

Reasons

7. The appeal concerns a site in industrial use within an industrial estate. The neighbouring sites to the immediate south include a very large grey industrial building and a little further along the road, there is an enclosed builders' merchant yard. Office buildings stand further to the north along Beddington Lane, while there is a large power plant opposite the site.
8. The appeal site is separated from the footpath alongside Beddington Lane by metal palisade fencing which includes pales with spikes on top. The palisade fencing is similar in appearance to that along the boundaries of all of the nearby industrial and office buildings described above. The gates which are the subject of the notice are in-set from the carriageway of the road, set back from the main fence and the splayed entrance. The gates are sufficiently high and close to the frontage to be visible within the street scene. The palisade fencing and gates on and near to the site contribute to the industrialised appearance of the area.
9. However while the gates and fencing are utilitarian in design, the rotary spikes consist of curved, long shards of metal that have a much more aggressive appearance. I appreciate that the appellant maintains the site and keeps it clean but that is not enough to make the appeal boundary features acceptable. When positioned on top of the gates the spikes would be seen as strident features that would give the entrance to the site and the street scene an unacceptably harsh, hostile and degraded appearance.
10. The appellant suggests that additional security measures have been installed along the fencing at neighbouring sites. However, the submitted photographs do not show that rotary spikes are affixed to the top of nearby frontage gates or fences so as to be an existing feature of the street scene. I have no information about which, if any, nearby security features are lawful. These photographs do not alter my finding that the impact of the development is unacceptable.
11. I conclude that the development as alleged would have an unacceptably harmful impact upon the character and appearance of the appeal site and the

surrounding street scene. It would not comply with Policy BP12 of the Core Planning Strategy¹ or DM1, DM3 and DM33 of the Site Development Policies². These expect development to create a sense of welcome; maintain or enhance the local character and appearance of the area; and contribute to the enhancement of the appearance of the public realm in industrial areas.

12. The development would also conflict with the National Planning Policy Framework. This attaches great importance to the design of the built environment and therefore expects development to create attractive and comfortable places to live, work and visit. The development also contradicts the Council's advice on boundary treatment as set out within guideline DCR19 of its Designing out Crime Supplementary Planning Document.

Other Matters

13. The appellant has described a history of crime in the area, including unauthorised access, theft and illegal dumping. I am sympathetic to the appellant's situation but he has not shown that positioning rotary spikes on top of the gates would make a critical difference to security of the site.
14. I also note that the development conflicts with Guideline DCR19 in the Council's Designing Out Crime Supplementary Planning Document. This seeks to avoid the use of negative features such as razor wire on boundary treatments. The appellant's need for security does not outweigh the harm that the alleged development would cause in respect of the main issue.

Conclusion

15. For the reasons given above I conclude that the appeal on ground (a) should not succeed and the deemed planning application should be refused. I shall therefore uphold the enforcement notice with corrections.

Formal Decision

16. It is directed that the enforcement notice be corrected by: adding the letter "s" to the word "gate" in section 3 and by adding the letter "s" to the word "gate" in section 5i).
17. Subject to these 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.

A Harwood

INSPECTOR

¹ Core Planning Strategy, adopted March 2009

² Site Development Policies, adopted March 2012