

Appeal Decision

Unaccompanied site visit made on 29 November 2019

by Andrew Dale BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 6th January 2020

Appeal Ref: APP/M5450/C/19/3230493

Land at Bombay Central, 328 High Road, Harrow Weald, Harrow HA3 6HS

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended.
 - The appeal is made by Mr R Lakhani against an enforcement notice issued by the Council of the London Borough of Harrow.
 - The enforcement notice was issued on 30 April 2019 under ref. ENF/0275/18/P/5637.
 - The breach of planning control as alleged in the notice is "Without planning permission: Unauthorised erection of a wooden canopy structure and external seating area a (sic) the rear of the Land (**"Unauthorised Development"**)".
 - The requirements of the notice are set out as follows:
 - "1. Demolish the Unauthorised Development
 - 2. Remove from the Land all materials and debris arising from compliance with the aforementioned requirement of the notice".
 - The period for compliance with these requirements is two calendar 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 1990 Act as amended.
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Decision

1. It is directed that the enforcement notice be corrected:
 - (a) In paragraph 2, by omitting the text "**(formerly known as Wealdstone Inn, College Road)**" and by adding the text "**Harrow Weald,**" before the word "**Harrow**".
 - (b) In paragraph 3, by altering "a" directly after the word "area" to "at".
2. Subject to those 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. I have simplified and corrected the address of the subject Land at paragraph 2 of the notice so that it follows the one in the heading above and corrected a typographical error in paragraph 3. These corrections should be fairly self-explanatory and should not result in any injustice to the parties.
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Background and matters of clarification

4. The appeal concerns a café, bar and restaurant (Bombay Central) which occupies the ground and basement floors of a building on High Road in Harrow Weald Local Centre. There is residential accommodation on the first and loft floors above. The commercial element of the building benefits from a rear yard, beyond which is the customer car park with access off College Avenue.
5. The enforcement notice attacks the erection of a wooden canopy structure and external seating area over the rear yard. They provide a covered outdoor eating and drinking area, with a wooden floor, tables and benches, in association with Bombay Central. The canopy has a sturdy wooden frame topped with polycarbonate sheeting. It reaches a height of about 3 m above the ground next to the car park and about 2.85 m above the footway to College Avenue. The canopy has an irregular shape to fit the rear yard. The roof on its longest side facing College Avenue extends for a length of about 20 m.
6. A retrospective planning application (ref. P/4692/18) for "*External seating area at rear with boundary fencing*" was refused on 4 January 2019 for the same reasons as those set out in the enforcement notice. I have noted the documents the parties have supplied in connection with that application.
7. The Weald Stone, an ancient boundary stone and a grade II listed building, is sited close to Bombay Central. The parties have not suggested that the development adversely affects this designated heritage asset or its setting. Whilst I have had special regard to the desirability of preserving the listed building or its setting or any features of special architectural or historic interest which it possesses, I see no reason to reach a different view. I make no further comment on this matter.

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

8. The main issue in deciding if planning permission ought to be granted for the wooden canopy structure and external seating area is the effect upon the character and appearance of the locality.
9. I would not dispute that wooden canopies and purpose-made outdoor eating and drinking areas are commonly found at public houses and restaurants. However, they tend to be more judiciously sited and/or more modest in scale than the development the subject of this appeal case.
10. Bombay Central stands in an extremely prominent location on the eastern side of High Road between its junctions with College Road and College Avenue and directly opposite its junction with Long Elmes.
11. In straight ahead views from Long Elmes or High Road, the development has only a limited visual impact, given that the westernmost parts of the canopy and seating area are very narrow in width and set well back from the front of the host building.
12. However, notwithstanding the presence of the southern side boundary fence and several trees in the public open space close to the southern flank of the main building, the development is very conspicuous in the College Avenue street scene and from several vantage points on High Road to the south-west. This is largely on account of the height of the canopy structure above that

- boundary fencing, the siting of the development close to that same fencing and well in front of the side building line set by the main building and the sheer spread and overtly horizontal emphasis of the canopy structure's roof.
13. The wooden canopy may have a generally open structure and cover only a small proportion of the overall site, but the impression passers-by gain is of a sprawling, visually prominent, flat-roofed structure which takes no reference from the architectural style or materials of construction of the host building. The use of polycarbonate sheeting is most unfortunate. The development stands out as being visually incongruous in its immediate surroundings and too disruptive to the College Avenue street scene.
 14. There may have been some commercial activity to the side, including parking, before the subject development took place but this would not have had the same degree of permanence or visual impact. Staining the wood to give it a darker finish and hanging plants from the framework would not overcome the objections arising from the siting, height and appearance of the development.
 15. The development has not led to the creation of a high quality building or place and is not sympathetic to local character. Rather, I find on the main issue that the wooden canopy structure and external seating area harm the character and appearance of the locality. There is therefore a failure to respect Policy 7.4 of the London Plan (2016), Policy CS 1 of the Harrow Core Strategy (2012), Policy DM 1 of the Harrow Council Development Management Policies (2013) and the National Planning Policy Framework. As the notice indicates, all these policies contain aspirations for high quality design which has not been achieved.
 16. I realise that third parties have not raised any objections in response to this appeal or, it seems, to the retrospective planning application. The Council has not raised any serious concerns about residential amenities or about highway and pedestrian safety. In supporting the commercial use at Bombay Central, the development in turn aids and adds to the vitality, viability and diversity of the local centre. These factors, either on their own or cumulatively, do not outweigh the harm I have identified under the main issue, especially when the National Planning Policy Framework declares that the creation of high quality buildings and places is fundamental to what the planning and development process should achieve.
 17. There is conflict with the development plan. I find no material considerations of sufficient weight to justify a grant of planning permission for what is alleged in the notice. The objections to the unauthorised development could not be satisfactorily overcome by the imposition of planning conditions. I conclude that the appeal on ground (a) and the deemed planning application should not therefore succeed.

Andrew Dale

INSPECTOR