



Appeal Decision

Site visit made on 8 January 2020

by P H Willows BA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 17 January 2020

Appeal Ref: APP/T5150/C/19/3231914 44 and 46 High Road, London NW10 2QA

- 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 Cengiz Erpolat (Woody Grill) against an enforcement notice issued by the Council of the London Borough of Brent.
 - The enforcement notice, numbered E/19/0166, was issued on 31 May 2019.
 - The breach of planning control as alleged in the notice is, without planning permission, the erection of a structure and raising of the ground levels to the rear of the premises.
 - The requirements of the notice are:
STEP 1: Demolish the structure to the rear of the premises and reduce the height of the land to its previous levels so that it is level to the alley way to the rear.
STEP 2 Remove all debris, items and materials arising from that demolition and remove all materials associated with the unauthorised development from the premises.
 - The period for compliance with the requirements is 3 months.
 - The appeal is proceeding on the grounds set out in section 174(2)(a) 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.

Main Issues

2. The main issues are:
 - i) The effect of the development on living conditions at nearby dwellings, with particular regard to any noise or disturbance at the appeal site.
 - ii) The visual effect of the development, and whether it preserves or enhances the character or appearance of the Willesden Green Conservation Area, within which the site lies.

Reasons

The allegation in the notice

3. The appeal site contains a restaurant (Woody Grill). The notice relates to the external area to the rear, which can be reached through the building. The area is a yard bounded by walls. There is a gate leading to a pathway which runs to the rear of neighbouring properties.
4. The allegation has 2 elements – the erection of a structure and the raising of ground levels. Although the nature of the structure is not specified in the

notice, there is only 1 building it can relate to, which is an open wooden building. Schedule 2 of the notice does not give any further details regarding the raising of land levels. However, Schedule 4 includes a requirement to, 'reduce the height of the land to its previous levels so that it is level to the alley way to the rear'. I saw during my site visit that the surface of the yard was tiled and raised a little in relation to the pathway leading to it. Thus, it appears that the rear yard was formerly level with the pathway. The appellant has not indicated any uncertainty regarding the allegation and I am satisfied that it is clear.

Living conditions

5. When I viewed the appeal site the building was being used to store various items. However, it clearly has the potential to be used in connection with the restaurant. Indeed, photographs with the appeal documentation show it laid out with chairs and tables. Comments from the Council, which have not been challenged, indicate that 'the structure is used as an extension to the dining area of the kebab shop'. The works to the floor of the yard also appear to have been carried out in order to make it a more inviting area for customers.
6. In my view, the unauthorised works as a whole are likely to lead to an increased use of the yard area by customers. Such an increased use would be likely to lead to increased noise levels arising from customers eating, drinking and socialising in this area. There is also likely to be noise from the rear doors to the restaurant being opened and closed, as the Council alleges. The unauthorised building, being open-fronted, would do little to suppress noise from the site.
7. There are residential properties close to the rear yard area. My attention has been drawn in particular to the flats at Metropolitan Court. This development has flats at elevated levels close to the appeal site. Many of the flats have windows and balconies which overlook the rear yard and are in clear view from it. In my judgement, noise from the rear yard area is likely to cause disturbance to the occupiers of the flats when windows are open or when the balconies are in use. My view on this is reinforced by letters submitted by the occupiers of a number of these flats, which include reference to past instances of noise arising from the appeal site.
8. For these reasons I conclude that the development harms living conditions at nearby dwellings due to noise and disturbance. This brings it into conflict with Policy DMP1 of the London Borough of Brent Development Management Policies Document which, among other things, seeks to prevent unacceptably increasing exposure to noise or general disturbance. The Council refers also to Policy DMP2, although that appears to be of little relevance, being concerned with new uses rather than physical developments such as this.

Visual effect and the Conservation Area

9. The unauthorised structure is a simple, open fronted building, finished in a muted grey colour. It is located along one side of the yard, with a tree hard up against one end.
10. The Conservation Area encompasses the commercial centre of Willesden Green. It appeared to me that the significance of the Conservation Area derives largely

from the formal, commercial appearance of the predominantly brick buildings that line the main roads.

11. Although the wooden construction of the unauthorised building gives it an informal appearance, this does not look out of place in this location to the rear of the premises. It is seen in the context of the Metropolitan Court development adjacent to the appeal property, which makes extensive use of timber as a finishing material. Moreover, its muted grey colour and its position to the rear of the restaurant, in a yard well contained by walls, means that it is not intrusive. The building does not appear too large in its context and does not dominate the yard or surrounding buildings. For these reasons I conclude that the building does not harm the character or appearance of the Conservation Area. The raising of ground levels and tiling of the yard does not have any significant effect on the character or appearance of the area.
12. Overall, therefore, the Conservation Area is preserved, and there is no further conflict with Policy DMP1 as a result of this issue. Nor is there conflict with Policy CP17 of the London Borough of Brent Core Strategy, which seeks to protect and enhance the suburban character of Brent.

Conclusion

13. Although I have not found the development to be visually harmful, that does not alter or outweigh my view that it harms living conditions at nearby dwellings. Consequently, I conclude that the appeal should not succeed. I shall uphold the enforcement notice and refuse to grant planning permission on the deemed application.

Peter Willows

INSPECTOR