



Appeal Decision

Site visit made on 26 June 2020

by Timothy C King BA (Hons) MRTPI

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

Decision date: 31 July 2020

Appeal Ref: APP/W5780/C/19/3240689

821 High Road, Ilford IG3 8TD

- 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 Lakhvinder Nahal against an enforcement notice issued by the Council of the London Borough of Redbridge.
 - The enforcement notice was issued on 8 October 2019.
 - The breach of planning control as alleged in the notice is: Without planning permission, the erection of a front extension comprising an ATM within a metal frame and metal roof covering.
 - The requirements of the notice are to:
 - (i) Remove the unauthorised front metal extension incorporating an ATM in its entirety; AND
 - (ii) Clear from the land all resultant building materials and rubble arising from compliance with the step (i) above.
 - The period for compliance with the requirements is within **three months** from the date of this notice taking effect.
 - The appeal is proceeding on the grounds set out in section 174(2)(a), (f) and (g) 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 as amended, and falls to be considered.
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Summary of decision

1. The appeal succeeds in part and the enforcement notice is upheld as corrected and varied in the terms set out below in the Formal Decision.

Matters concerning the enforcement notice

2. Requirement (i) includes the wording "metal extension". However, the word 'metal' is too narrow a term. The essence of the breach is the erection of the front extension itself, although its form and design have compounded to accentuate the impact of the development. Similarly, in this context, the wording "incorporating an ATM in its entirety" is unnecessary, especially given its apparent removal and also my findings on the issue of highway safety.
3. In the circumstances, requirement (i) is corrected by the deletion of the wording 'metal' and "incorporating an ATM in its entirety", and shall now read:

"Remove the unauthorised front extension"

Background

4. In 2016 the Council refused planning permission (ref 3446/16) for a single storey front extension to the premises on the grounds that, due to its positioning forward of the shopping terrace it would represent an intrusive and dominant feature and would be "out of character with the prevailing pattern of development."
5. It is apparent that a front extension was subsequently erected regardless, and an application was then submitted for the retention of an ATM installed within the structure ahead of the shop front. In January 2019 the proposal was refused planning permission (ref 4608/18) for a similar reason as that previously and also, due to the consequential reduction in the width of the footway, on grounds of pedestrian safety.
6. Following this refusal the Council decided that it was expedient to issue an enforcement notice in an attempt to regularise the planning position.

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

Main Issue

7. The main issues are:
 - 1) the effect of the development on the character and appearance of the host building and its surrounding area; and
 - 2) whether the development is prejudicial to highway safety, with particular regard to the effect on pedestrian movement.

Reasons

Character and appearance

8. In an attempt to support his case that the close-sided front extension to the appeal premises should be retained the appellant makes reference to a front extension on the restaurant at 827-829 High Road, further along the parade. Although I observed this more open-sided structure at my site visit I have also noted the Council's comments that it was erected without the benefit of planning permission. Indeed, whilst the use as a restaurant was allowed following an appeal to the Secretary of State in June 2013 (*APP/W5780/A/13/2191480*), the associated unauthorised canopy, which formed part of the appeal, was itself dismissed. The Council also indicates that enforcement investigations are occurring in respect of the unauthorised extension.
9. In addition, the appellant has provided specific examples of front extensions to other local retail and commercial premises, and has included photographs to illustrate the developments. However, no mention was made, nor documents provided, as to their respective planning status. As such, there is no official documented confirmation that the various developments shown enjoy the requisite planning permissions or, if unauthorised, are capable of being enforced against or, instead, whether they are effectively immune from such action due to the passage of time. I therefore afford only limited weight to the identification of front extensions to other commercial premises. Further, even if planning permission has been granted for any of these developments, the date of such might easily be significantly prior to the adoption of the Redbridge

Local Plan in 2018; policies from which the Council now seeks to justify its decision to issue the enforcement notice.

10. The development enforced against comprises what appears as a dark coloured, box-like, front projection, somewhat makeshift in form, which covers the full width of the shop's frontage. The appellant's plan (drawing no JS/SP/1334/01), submitted to accompany planning application ref 4608/18, indicates it extending out 2.87m over the footway. Overlain by a slightly sloping corrugated roof that reaches up to fascia height, the impact of the development is significant. In illustration, due to the extension's form and design, the shopfront itself has been completely obscured, and this detraction has resulted in some significant visual detriment. The impact, though, is greatly compounded as, apart from some examples of traditional front canopies extending out over the footway from retail premises along the shopping parade, there is nothing comparable to this extension's solidity and considerable depth. Accordingly, the development is anomalous in form, out of keeping with, and harmful to, the street scene.
11. Apart from highlighting examples of other such developments, and the offer of undertaking adjustments to the size of the structure, including the removal of the ATM, the appellant has put forward only limited representations in support of the DPA. Indeed, at my site visit, from the street, it appeared that the ATM has already been removed. However, these factors refer more specifically to the considerations to be applied under the ground (f) appeal, rather than making a case that planning permission should be granted for the extension in situ.
12. Given the prevailing pattern of development in the immediate area and the characteristics of the retail parade of which the appeal property forms part, I find that the incongruity and undue prominence of the front extension to this shopping frontage is stark. I find that the development is especially at odds with the design objectives of policy LP26 of the Redbridge Local Plan (LP) and also policy LP9 thereto which, amongst other things, applies these objectives in an attempt to contribute to the vitality and viability of the borough's town centres. Although the Council also cites policies LP23 and LP28 I find that their applicability to the development at issue is somewhat tenuous.
13. I therefore conclude that the development is harmful to the character and appearance of the host building and its surrounding area, and is in material conflict with the aims and requirements of LP policies LP26 and LP9.

Highway safety

14. The Council, in the notice's section 'Reasons for Issuing this Notice' refers to the risk of conflict on this corner/road junction. This, however, is not a corner site as the property lies mid-terrace on the parade running between the High Road's junctions with Eastwood Road and Wellwood Road. Further, in its representations, the Council has provided the case report relating to application ref 4608/18, and it is shown that the local highway authority raised no objections to the proposal at that time.
15. The Council does refer to Transport for London's document 'Pedestrian Comfort Guidance for London' which suggests minimum footway widths for active pedestrian flows. In this instance the remaining footway ahead of the extension is less than 3m width, significantly less than the 4.2m width advised.

However, flexibility is given where there is no street furniture impeding movement and, here, the metal post referred to is not directly in line with the premises and is of very limited diameter. Moreover, as the ATM has been removed, any potential queuing restricting movement is no longer an issue.

16. In the circumstances, although the front extension has clearly restricted some pedestrian movement along the footway directly outside the appeal premises, no convincing evidence has been put forward by the Council to demonstrably show that the development has had a consequential adverse impact on the wellbeing of pedestrians on matters of highway safety.
17. I therefore conclude that, in the absence of compelling evidence to the contrary, the development is not prejudicial to highway safety.

Other considerations

18. The appellant says that the Council, in requiring for the extension's removal, is adding to the hardships that retail businesses are currently experiencing. From the evidence, however, it seems to me that the overriding issue in this instance is the depth, form and appearance of the front extension erected. It is not the case that all front extensions to retail premises are unacceptable as a matter of principle, and the policies cited by the Council do not suggest otherwise.

Conclusions on the DPA

19. Although I have found that the development does not impact on matters of highway safety this is significantly outweighed by its harmful visual effect on both the host building and also the character and appearance of the surrounding area.
20. For the above reasons, and having had regard to all matters raised, the appeal on ground (a) does not succeed.

The Appeal on Ground (f)

21. The appeal on ground (f) is that the requirements of the notice exceed what is necessary. When an appeal is made on ground (f), it is essential to understand the purpose of the notice. S173(4) provides that the purpose shall be either to remedy the breach of planning control or to remedy any injury to amenity. In this case it would appear from the requirements of the notice that its primary purpose is to remedy the breach by restoring the land to its condition prior to the breach taking place.
22. Although the ATM appears to have been removed this has made little difference, if any, to the impact of the extension itself. The appellant does refer to possible reductions that might be made to the extension's depth but no definitive articulated scheme has seemingly been drawn up to this end. Certainly, no alternative scheme is before me. Besides, in the absence of any permitted development rights for such developments, any intention to rebuild or modify the existing extension would require that an application be submitted to the Council in an attempt to secure planning permission for the proposal.
23. Accordingly, the appeal on ground (f) fails.

The Appeal on Ground (g)

24. The appeal on ground (g) is that the period for compliance with the notice falls short of what is reasonable.
25. The appellant says that the stated period of three months for compliance should be extended to at least six months due to both the terms of the contract with the ATM supplier and also the need to find alternative storage space for items contained within the extension.
26. Contractual matters appear to have been resolved but I accept that alternative arrangements will need to be made for stock and that works will have to be carried out to secure the reconfigured shop premises. Given the appellant's comments I am also mindful to the possibility that he might wish to make a formal approach to the Council in an attempt to arrive at an alternative solution.
27. In giving consideration to the above I am satisfied that a period of six months would be more appropriate to make the necessary arrangements and achieve compliance.
28. On this basis the appeal succeeds on ground (g) and I shall vary the notice, accordingly.

Formal Decision

29. The appeal is allowed on ground (g), and it is directed that the enforcement notice be varied by the deletion of three months and the substitution of six months as the period for compliance. Subject to this variation and the notice's Requirement (i) being corrected to state "Remove the unauthorised front extension", 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.

Timothy C King

INSPECTOR