



Appeal Decision

Site visit made on 19 October 2021

by J Moss BSc (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: Tuesday, 11 January 2022

Appeal Ref: APP/T5150/C/20/3259619

Land at the alleyway to the rear of 30-32 Harrow Road, Wembley, HA9 6PG also known as alleyway to the rear of 1 to 24 Monks Park Gardens, Monks Park, Wembley.

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended. The appeal is made by Mr Erol Gulsen or Maxxi Save International Food Centre against an enforcement notice issued by the Council of the London Borough of Brent.
 - The notice, numbered E/20/0093, was issued on 13 August 2020.
 - The breach of planning control as alleged in the notice is: Without planning permission, the material change of use of the land to storage associated with the retail use of
 - 30-32 Harrow Road, Wembley, HA9 6PG.
 - The requirements of the notice are to:
 - STEP 1 Permanently cease the unauthorised use.
 - STEP 2 Remove from the land all shipping containers, goods or other items associated with the unauthorised use.
 - STEP 3 Remove from the land any waste or debris arising from compliance with the above steps.
 - The period for compliance with the requirements is 6 months after the notice takes effect.
 - 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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Summary Decision: The appeal is dismissed.

Preliminary Matters

1. The revised National Planning Policy Framework dated 20 July 2021 (the Framework) was published after the appeal had been submitted and initial statements made. As such, the parties were given the opportunity to provide any comments they had with regard to the Framework.

Ground (a) and the deemed planning application

Main Issues

2. The appeal on ground (a) is that, in respect of any breach of planning control which may be constituted by the matters stated in the notice, planning permission ought to be granted. I note the substantive reasons for issuing the enforcement notice and from these I have identified the following main issues:
 - Whether or not the development results in inconveniences for users of the lane and is prejudicial to highway safety, as a result of any obstruction caused by the development; and

- The effect of the development on the character and appearance of the site and the surrounding area.

Reasons

Lane and Highway Matters

3. The appeal site is part way along a lane to the rear of properties on Harrow Road, most of which are used for commercial purposes at ground floor. The lane is also to the rear of residential properties along Monks Park Gardens. On the whole the lane is not of a sufficient width to allow two vehicles to pass. There are, however, passing points along the lane. The land to which the notice relates is at a wider part of the lane and appears to be at one of these passing points.
4. The notice alleges a material change of use for storage associated with a nearby retail unit. The use is facilitated, but not wholly accommodated within a metal storage container. There is also a timber framed unit at the end of the container with a door facing out onto the lane. At the site visit I noted that land either side and to the front of the container was also being used for the storage of such items as empty fruit and vegetable boxes, and wooden pallets.
5. I can see that most properties either side of the lane can be accessed from it, and it is clear that such access is of particular importance to the businesses along Harrow Road. The use of the appeal site clearly hinders the flow of traffic along the lane and causes an obstruction, particularly when the doors to the container are open, as shown in the photographs¹ attached to the Council's statement. The use is, therefore, an encumbrance to the use of the lane by residents and businesses who gain access from it. Any conflict with users of the lane, where unnecessary manoeuvring of vehicles is likely, results in an increase risk to the safety of those users.
6. It is likely that the use would at times prevent any access along the lane, particularly for larger service or emergency vehicles. Such obstruction means that the loading and unloading of commercial vehicles serving the business premises along Harrow Road is likely to occur on that highway. I noted the busy nature of Harrow Road and the shortage of appropriate places for vehicles to stop. This would include stopping places for commercial vehicles serving the Harrow Road businesses. The inappropriate parking of commercial vehicles on this road would have an adverse effect on the flow of traffic and, therefore, highway safety.
7. Having regard to all of the above, I can only conclude that the development results in inconveniences for users of the lane and is prejudicial to highway safety. Accordingly, the development fails to accord with Policy DMP1 (Development management general policy) and Policy DMP13 (Movement of goods and materials) of the London Borough of Brent Local Plan: Development Management Policies dated November 2016 (LBBLP). These inform that development will be acceptable provided it is satisfactory in terms of, amongst other matters, manoeuvring and servicing, and that it does not have an adverse impact on the movement network. These policies also resist the loss of existing servicing arrangements where they are still required to meet operational needs. The development also fails to accord with the Framework,

¹ Photograph at appendix 2 dated Thursday, 6 February 2020.

paragraph 112 d) in particular (paragraph 110 d) of the previous version), as it does not allow for the efficient delivery of goods, and access by service and emergency vehicles.

8. Policy BT3 (Freight and servicing, provision and protection of freight facilities) of the Brent Local Plan Regulations 19 Consultation document (BLP) is also referred to in the enforcement notice. This contains similar requirements to LBBLP Policy DMP13. Whilst the development would conflict with this Policy, this conflict carries limited weight in this case as the BLP does not form part of the development plan.

Character and Appearance

9. I acknowledge that the purpose of the lane might be functional and its character reflects that. However, the open storage of various items on the appeal site, many of which appear to be waste, gives it a particularly unattractive appearance. Its appearance is made worse by the utilitarian nature of the metal storage container. The appeal site is visible from the public realm and is particularly close in its relationship to some residential dwellings along Monks Park Gardens. I find that the development has a harmful effect on the setting of these nearby residential properties, some of which adjoin and have gardens that are very close to the appeal site. Furthermore, the development also causes harm to the character and the appearance of the lane, despite its functional purpose.
10. For the reasons above, I find the effect of the development on the character and appearance of the site and the surrounding area to be unacceptable. Accordingly, the development conflicts with LBBLP Policy DMP1, as it fails to provide a high level of external amenity and complement the locality. For these reasons the development also fails to comply with the Framework, paragraph 130 in particular (paragraph 127 of the previous version).

Other Matters and Planning Balance

11. Section 38(6) of the Planning and Compulsory Purchase Act 2004 indicates that if regard is to be had to the development plan for the purpose of any determination to be made under the planning Acts the determination must be in accordance with the plan unless material considerations indicate otherwise.
12. I do not disregard the service the appellant's business provides to the local community, and acknowledge that the appeal site provides valuable additional storage for that business. I have not, however, been provided with sufficient evidence to indicate that other storage options, such as an internal rearrangement of his premises, would not be sufficient to accommodate the appellant's storage needs. Even if there were no other options available to the appellant, this would not be a material consideration of sufficient weight to overcome the harm I have identified in this case.
13. All things considered, I have no reason to conclude that my determination of the appeal should be made otherwise than in accordance with the development plan. Accordingly, I conclude that planning permission ought not to be granted and that the ground (a) appeal should fail.

Conclusion

14. For the reasons given above, I conclude that the appeal should not succeed. I shall uphold the enforcement notice and refuse to grant planning permission on the application deemed to have been made under section 177(5) of The Town and Country Planning Act 1990 as amended (the 1990 Act).

Formal Decision

15. 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.

J Moss

INSPECTOR