



Appeal Decision

Site visit made on 17 February 2022

by Laura Renaudon LLM LARTPI Solicitor

an Inspector appointed by the Secretary of State

Decision date: 04 March 2022

Appeal Ref: APP/N5090/C/21/3278494

135-137 Hamilton Road, London NW11 9EG

- 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 Kays of 135 Hamilton Road against an enforcement notice issued by the Council of the London Borough of Barnet.
- The enforcement notice, numbered ENF/0022/21, was issued on 8 June 2021.
- The breach of planning control as alleged in the notice is *Without planning permission, the erection of a front canopy extension*.
- The requirements of the notice are to (1) demolish the front canopy extension; and (2) permanently remove all constituent materials resulting from the [demolition] from the property.
- The period for compliance with the requirements is three 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.

Summary Decision: the appeal is allowed, the enforcement notice is quashed, and planning permission is granted in the terms set out below in the Formal Decision.

Main Issue

1. The main issue in the appeal, arising from the Council's reason for issuing the notice, concerns the effect of the development on the character and appearance of the premises and the wider area.

Reasons

2. In support of its reasoning, the Council refer me to policy DM01 of the Development Management Policies document of 2012, adopted as part of Barnet's Local Plan, and specifically to its requirement for development proposals to be based on an understanding of local characteristics and to preserve or enhance local character and to respect the appearance and pattern of surrounding buildings, places or streets. The appellants refer me additionally to several provisions of the National Planning Policy Framework and the London Plan, principally those provisions concerning design and the promotion of economic and retail development.
3. The appeal site comprises a local convenience store forming part of a small parade of shops on Hamilton Road in what is mainly a residential area. Houses adjoin the parade to the south east. The parade ends at the junction with Woodville Gardens, with further houses to the north west of Hamilton Road on the other side of the junction.
4. The buildings forming the parade have a somewhat staggered building line, receding towards the junction, and they all have forecourt areas that are visibly

distinct from the footway beyond. These forecourt areas adjoin the footway in a line that is commensurate with the boundaries of the front garden walls, gardens and driveways of the adjoining residential properties. There is some paraphernalia on the adjoining retail forecourts; mostly bins at the time of my visit, together with a national lottery stand outside the nearby newsagents'. A fruit shop two doors down appeared to have an extendable canopy above the shop. The appeal property contains the only permanent building in the parade forward of the shop fronts, consisting of a blue-framed transparent canopy across most of the shop's width held up by a series of blue metal poles located where the forecourt meets the adjoining footway. The canopy thus covers most of the forecourt area. I saw that it was being used to house trolleys and a few pallets at the time of my visit.

5. The Council's concern is that the canopy is overly prominent in the terrace, breaking a defined building line and dominating the terrace and neighbouring shops to the detriment of the character of the premises and wider area. Because of the particular way in which the canopy structure is configured, I do not agree. The structure is (save for the poles) open to the sides and the front and has a mostly transparent roof. Because of these factors I do not think that the building line is unacceptably interrupted. The poles are placed commensurately with the edge of the forecourt as it adjoins the footway which in turn is aligned with the boundaries of the properties in the street as a whole.
6. Nor do I consider that it dominates the terrace and neighbouring buildings to an unacceptable degree, given the nature of its construction. It appears to bring benefits to the functioning of the store so supporting the business. Those benefits fall to be weighed against the design merits of the canopy. Whilst the canopy does constitute a building forward of the building line, due to its design it is nonetheless sympathetic with the visual maintenance of the building line and the prevailing character of the shopping parade due to its light and transparent construction.
7. The Council seek a condition preventing any alterations to the structure, and I agree that alterations could potentially result in a different perception of the building in which unacceptable harm might result. I would go further. Not only alterations but any attachments, fixtures or fittings (such as the provision of tarpaulins to the sides) could also have such a result. It is important to my findings that the building does retain the openness of the forecourt. I therefore accept that such a condition is necessary, and I shall impose one with the additions of prohibiting any attachments, fixtures or fittings to the structure. I shall however remove the 'tailpiece' to the Council's proposed condition, which will ensure that any proposed alterations etc. in future will require the formal deliberations of an application.
8. Additionally I observed at my site visit that some debris was collecting on the structure's roof with the potential to detract from its appearance. I have considered whether a further condition is necessary, requiring the appellants to keep the roof of the structure free of debris, but am mindful that the Council have other (s. 215) powers in this regard and so I do not think it necessary.
9. Subject to imposing the condition suggested by the Council, as appropriately amended, I do not find the development to conflict with the requirements of policy DM01 and furthermore I find that it is consistent with the development plan as a whole.

Conclusion

10. For these reasons I conclude that the appeal should succeed on ground (a) and planning permission will be granted, subject to the imposition of a condition.

Formal Decision

11. The appeal is allowed, the enforcement notice is quashed and planning permission is granted on the application deemed to have been made under section 177(5) of the 1990 Act as amended for the development already carried out, namely the erection of a front canopy extension on land at 135-137 Hamilton Road, London NW11 9EG, subject to the following condition:

- (1) Nothing shall be attached, affixed or fitted to the structure hereby approved and no alterations shall be made to it.

Laura Renaudon

INSPECTOR