



## Appeal Decision

Site visit made on 27 June 2023

**by M Aqbal BA (Hons) DipTP MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 11<sup>th</sup> July 2023**

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**Appeal Ref: APP/T5150/W/22/3310745**

**148 Ealing Road, Brent, Wembley HA0 4PY**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
  - The appeal is made by Mr Pramod Shah against the decision of London Borough of Brent.
  - The application Ref 22/1716, dated 10 May 2022, was refused by notice dated 5 July 2022.
  - The development proposed is construction of front canopy to forecourt.
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### Decision

1. The appeal is allowed and planning permission is granted for construction of front canopy to forecourt at 148 Ealing Road, Brent, Wembley HA0 4PY in accordance with the terms of the application Ref 22/1716, dated 10 May 2022, subject to the following conditions:
  - 1) The development to which this permission relates must be begun not later than the expiration of three years from the date of this permission.
  - 2) The development hereby permitted shall be carried out in accordance with the following approved plans and drawings: 210302-07-P0, 210302-06-P1 and 210302-00-P2.
  - 3) No amplified music shall be played within the canopy hereby permitted.
  - 4) The canopy hereby permitted and the area of the forecourt occupied by this shall only be used ancillary to the use of the ground floor of the building at 148 Ealing Road and shall not be subdivided, occupied or used separately from this.

### Preliminary matter

2. A raised concrete floor has been installed over the forecourt area at the appeal site. This is not shown on the existing or proposed plans. Therefore, my determination of the appeal and Decision do not relate to this.

### Main Issues

3. The main issues are the effect of the proposal on the character and appearance of the area and whether the proposal would affect pedestrian safety.

### Reasons

#### *Character and appearance*

4. The appeal site is located along a part of Ealing Road, which is formed of terraced development, mostly comprising two storey buildings with

accommodation at roof level. In general, these incorporate a mix of residential uses at first and second floors with a parade commercial premises (mainly shops) at ground floor.

5. These buildings are setback from the highway behind generous forecourts. The forecourts are arranged in various ways, some are open, others benefit from canopies and some have been extended over. Some are occupied by temporary structures such as marquees and display stands. Collectively, the treatment of these forecourts has altered the wider character and appearance of Ealing Road and contribute to a varied street scene.
6. The proposed canopy would have an overall height of nearly 3.1m and eaves height of about 2.8m. It would comprise an open sided, powder coated aluminium frame with three supports on either side and an open frontage. The roof would be glazed. As such, it would utilise materials consistent with other forecourt structures nearby. Furthermore, due to its size, open and simple design, it would not be particularly dominant in relation to the scale of the host building.
7. Moreover, the proposed canopy in terms of its design and materials would be similar to an existing canopy on the forecourt of the adjacent building at 146 Ealing Road. As such, the proposal would be complementing the existing canopy and contributing to the varied street scene along this road.
8. For the above reasons, the proposal would not unacceptably harm the character and appearance of the area. Consequently, the proposal would accord with Policy DMP1 of the Brent Local Plan : 2019-2041 ('LP'), which amongst other things, says that development would be acceptable provided that it is of a location, use, concentration, siting, layout, scale, type, density, materials, detailing and design that provides a high level of amenity and complements the locality. Accordingly, and having regard to its context, the proposal would also be consistent with broader design aspirations of Policy BD1 of the LP.

#### *Pedestrian safety*

9. The Council asserts that structures on forecourts should not be open ended to display goods fronting the public highway, as this would encourage loitering on the footway and further obstruct pedestrian movement. To this end, the Council suggests the setting back of the proposed canopy by about 1.1m, in order to retain a 4m width of footway.
10. However, the Council's Supplementary Planning Document 3 – Shopfronts (2018) says that: 'To prevent conflict, forecourts should be clearly delineated from the main pavement, allowing sufficient space for the free flow of pedestrians. This will require a clearance of 3m for primary pedestrian routes, where there is heavy footfall (town centres, busy shopping areas and public transport nodes).'
11. The adopted footway fronting the appeal site and the wider terrace is particularly generous and is nearly 3m wide and the proposed canopy would not extend into this. Accordingly, the proposed canopy and its use would not unacceptably interrupt the route of pedestrians travelling along the footway to the detriment of their movement or highway safety.

12. Therefore, the proposal accords with LP Policy DMP1, which also requires that proposals are satisfactory in terms of means of access for all and LP Policy BE7, which says that forecourt trading will be permitted where it does not cause an obstruction to pedestrians. Also, the proposal would not prejudice the aims of Policy BT1 of the LP, which seeks to prioritise active and sustainable travel over private motor vehicles.

### **Conditions**

13. I have considered the conditions suggested by the Council in light of the requirements of the Planning Practice Guidance and the National Planning Policy Framework. In addition to the standard timescale condition, I have imposed a condition specifying the relevant plans as this provides certainty.
14. I have also specified a condition restricting the playing of amplified music within the canopy in the interests of the amenity of nearby residents. In the interests of certainty and to safeguard the amenity of the area and neighbours, I have specified a condition requiring that the use of the canopy and forecourt be only ancillary to the ground floor of the appeal property ('148 Ealing Road').
15. The Council's suggested Condition 4 refers to the treatment of 'upper windows' along the elevations of the canopy. Because the proposed canopy does not incorporate any windows, this condition is imprecise and unenforceable.
16. Suggested Condition 5 seeks to restrict the installation of roller shutters to the proposed canopy. Such works would require planning permission and any unauthorised works can be dealt with through the Council's enforcement powers. Therefore, such a condition is not necessary.
17. For the reasons already given, the proposed canopy would not obstruct the adjacent footway. In any event, the footway is not part of the appeal site and obstruction of this could be dealt with under highways legislation. As such, the Council's suggested condition requiring that the footway be kept clear of all obstructions and not used for the storage or sale of goods is unenforceable and not necessary.
18. Where necessary and in the interests of clarity and precision, I have altered the conditions to better reflect the relevant guidance.

### **Conclusion**

19. For the above reasons, I conclude that the appeal should succeed.

*M Aqbal*

INSPECTOR