



Appeal Decisions

Site visit made on 16 August 2023

by L Perkins BSc (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 4 October 2023

Appeal A Ref: APP/M5450/W/22/3310606

The Castle Public House, 30 West Street, Harrow HA1 3EF

- 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 A Durn of Fuller Smith & Turner PLC against the decision of the Council of the London Borough of Harrow.
- The application Ref P/0643/22, dated 23 February 2022, was refused by notice dated 4 October 2022.
- The development proposed is described as: Concrete steps & handrail.

Summary Decision: The appeal is allowed and planning permission is granted in the terms set out below in the Formal Decision.

Appeal B Ref: APP/M5450/C/23/3315578

The Castle Public House, 30 West Street, Harrow HA1 3EF

- 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 A Durn of Fuller Smith & Turner PLC against an enforcement notice issued by the Council of the London Borough of Harrow.
- The enforcement notice was issued on 9 December 2022.
- The breach of planning control as alleged in paragraph 2 of the notice is:
Without planning permission:
 - 2.1 the installation of access steps with handrail to the rear section of the Land as shown hatched black on Plan 2 attached hereto ("the Unauthorised Steps"); and
 - 2.2 the erection of a timber fence and door enclosing the north western elevation shown edged in blue of the pergola which is located within the Land as shown cross-hatched black ("the Unauthorised Pergola Enclosure").
- The requirements set out in paragraph 4 of the notice are:
 - 4.1 Remove the Unauthorised Steps from the Land.
 - 4.2 Remove the Unauthorised Pergola Enclosure edged in blue and carry out works to the pergola in accordance with the approved plan of planning permission reference P/3890/21 dated 16 November 2021.
 - 4.3 Remove from the Land all materials and debris arising from compliance with paragraphs 4.1 and 4.2 of this notice.
- The period for compliance with the requirements is 2 calendar 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. 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.

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.

Preliminary Matters

1. The Council has confirmed that there is an error in the decision notice for Appeal A, as the reference in that document to drawing 1033/03 B should instead read 1033/03 D. The appellant has also confirmed this to be the case and this is consistent with what is set out in the Council's committee report. So I have dealt with Appeal A on this basis.
2. The development in each appeal is essentially the same, except that Appeal A proposes an alternative handrail design for the steps and Appeal B additionally includes a section of a timber fence and door enclosing the north western elevation of an existing pergola. So I have considered both appeals together, distinguishing between them in my reasoning where necessary.

Reasons

3. The Council's decision notice and enforcement notice both refer to the steps as being detrimental to "residential amenities" without specifying precisely what this means. Aside from clear disputes about character and appearance and privacy, the Council has indicated in its statement that there are concerns about noise and disturbance. So I have determined the appeals on the basis that this is what is meant by "residential amenities". I have no reason to think otherwise.
4. Therefore, the main issues in these appeals are:
 - the effect of the appeal development on the character and appearance of the area, including the Harrow on the Hill Conservation Area and the setting of the adjacent listed building on the appeal site; and
 - the effect of the appeal development on the living conditions of adjoining occupiers, with particular regard to privacy, noise and disturbance.

Character and Appearance

5. The public house on the appeal site is a grade II listed building. So it is a designated heritage asset and in considering whether to grant planning permission for the appeal development, there is a statutory duty upon me under section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 to have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses.
6. The glossary of the National Planning Policy Framework (the Framework) defines the setting of a heritage asset as:

"The surroundings in which a heritage asset is experienced. Its extent is not fixed and may change as the asset and its surroundings evolve. Elements of a setting may make a positive or negative contribution to the significance of an asset, may affect the ability to appreciate that significance or may be neutral."
7. In addition, the appeal site is within the Harrow on the Hill Village Conservation Area. So the appeal site constitutes part of a designated heritage asset and there is a statutory duty upon me under section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990, to pay special attention to the desirability of preserving or enhancing the character or appearance of that area.

8. The Council's Conservation Area Appraisal characterises the area as having a variety of building forms and a wealth of architectural design of different styles, materials and detailing, in a compact, tight physical townscape, consisting of a densely packed network of streets with narrow, winding roads and undulating terrain. I have no reason to disagree with these descriptions.
9. From the information provided, the significance of the listed building on the appeal site is derived from its historic interior and exterior features, as well as it still being in its original use, which the Appraisal describes as making a valuable contribution to the vitality of the area. I have no reason to disagree.
10. Based on the Appraisal, the significance of the Harrow on the Hill Village Conservation Area is derived from its close historical associations with Harrow School and its underlying landscape character, consisting of a large wooded mound rising above the surrounding plain. Aside from the school, the area is predominantly residential, with some industrial and commercial uses, such as the public house.
11. The appeals concern development in the back garden of the public house. So there would be no effect on the listed building itself or any of its features.
12. The stairs which are the subject of these appeals are built into the garden, which rises steeply up from the back of the public house. A small area of soft landscaping has been lost as a result. But there is a broad mix of ground materials seen across the site, including paving of various kinds, timber decking and concrete.
13. Concrete is seen on another external staircase, along the eastern boundary of the site. This eastern staircase also has a metal handrail, not dissimilar to that in Appeal B. A similar metal handrail is also seen along a raised area of paving, immediately outside the external door on the western side of the building.
14. In the context of the above, pursuant to this main issue, I see no reason to object to the stairs which are the subject of Appeal A and Appeal B, or the handrail which is the subject of Appeal B. These features merely reflect similar development seen elsewhere on the appeal site and so in my judgement, they preserve the character and appearance of the conservation area.
15. For the same reason, I do not consider there is any harmful effect of the stairs or handrail on the setting of the listed building, which due to the significant change in land levels, is generally experienced from West Street.
16. The wrought iron handrail proposed in Appeal A, would reflect traditional treatments seen elsewhere in the conservation area. But this does not mean the handrail in Appeal B is unacceptable, given the immediate context within which it sits.
17. Either handrail may be glimpsed at a distance in a gap between buildings on Crown Street or in private views from upper floor windows of surrounding homes. But from these viewpoints, any handrail will be seen within the context of the adjacent pergola and other buildings, structures and planting and I do not find this to be unacceptable.
18. The timber fence and door which form part of Appeal B are attached to a pergola which the information provided indicates has planning permission. As a matter of my planning judgement, they appear as part of that structure, which

is already enclosed with timber along all of its long eastern edge. In this context, I do not consider the timber fence and door attacked by the notice have the harmful effect on openness identified by the Council.

19. Taking all of the above into account, I conclude that the development in either appeal will not harm the character or appearance of the area, including the Harrow on the Hill Conservation Area or the setting of the adjacent listed building on the appeal site, or the significance of either of these designated heritage assets. Nothing has been provided to lead me to a different conclusion in this regard.
20. Accordingly, in respect of this main issue, I find no conflict with Policy CS 1 B of the Harrow Core Strategy 2012, Policy DM 1 or DM 7 of the Harrow Development Management Policies 2013, Policy D3 or HC1 of the London Plan 2021, the Harrow on the Hill Conservation Area Appraisal or the design or historic environment policies of the Framework.

Living Conditions

21. In respect of privacy, at my site visit I stood on each step of the appeal staircase to determine what could be seen on neighbouring property. It is clear that the rears of Nos 3 and 5 Crown Street may already be overlooked from the pub garden. In my judgement, the appeal development before me does not significantly change this and, from the information provided, the entire appeal site may lawfully be used for the public house use, including all of its garden, by customers. I give this factor significant weight in my decision.
22. I realise from photographs provided by an interested party that a fence has been removed on the appeal site, facilitating views between the pub garden and 3 Crown Street. But the removal of that fence is not before me in these appeals.
23. The existing boundary treatments and vegetation on the western side of the pub garden mean that views into the gardens of 8, 10, 12 and 14 Waldron Road are not possible from the appeal steps. Upper floor windows of these homes can be seen from the steps. But from what I have seen on site, I am satisfied that the appeal steps are far enough away from these windows to prevent any significant loss of privacy for the occupiers of these homes.
24. In respect of noise and disturbance, the steps do not change the lawful use of the entire appeal site as a public house. Nor do they increase the number of covers, a substantial number of which already exist in the rear garden. I also do not see that the steps result in any intensification of the use and nothing has been provided to lead me to a different view in this regard.
25. No specific evidence has been provided that the steps increase noise or disturbance and based on my observations, nor do I consider they do either, given that they do not provide a particularly wide or comfortable place for customers to stand or sit.
26. From the information provided, the purpose of the steps is to allow kitchen staff to move easily between the pub kitchen and the external seating area in the pub garden. As I saw on my site visit, the steps provide the most direct route between the kitchen and the garden, without servers needing to navigate a route through the internal bar, to access the external staircase on the eastern side of the site, which is used by customers to access the garden.

27. I am satisfied that a kitchen server walking up or down the appeal steps does not result in an unacceptable amount of noise or disturbance, at any time of day. Nothing has been provided to lead me to a different view in this regard.
28. Aside from the timber fence and door, which are the subject of Appeal B, there is no physical restriction preventing customers from accessing the appeal steps. Indeed some have been photographed doing so. But in light of the purpose of the steps, it is not in the interests of the smooth running of the pub kitchen operation for customers to use the steps or for staff to linger there on breaks. Customers or staff doing so would cause an obstruction to staff carrying food or crockery and I give this factor significant weight in my decision.
29. Moreover, stood at the top of the appeal steps, it is not at all clear where they lead to. So I do not consider that any particular incentive exists for customers to walk down them from the pergola.
30. I conclude that the appeal development does not harm the living conditions of adjoining occupiers, with particular regard to privacy, noise or disturbance. As such, in this regard, I find no conflict with Policy CS 1 of the Harrow Core Strategy 2012, Policy DM 1 of the Harrow Development Management Policies 2013 or Policy D3 or D14 of The London Plan 2021.

Other Matters

31. Concerns have been raised about disregard for planning regulations. But planning enforcement is intended to be remedial rather than punitive and so it makes no difference whether development has already occurred without planning permission or not.
32. My attention has been drawn to alleged breaches of planning control on the appeal site, other than that which is the subject of Appeal B. But these other allegations are not before me and may be reported to the Council for it to consider within the context of section 172 of the 1990 Act. Also not before me in these appeals, is whether planning permission should have been granted for the pergola to which the timber fence and door have been attached and so I make no comment on it.
33. Concerns have been raised that the appeal development poses a security risk to surrounding gardens. But based on my observations, I do not see that this is the case and no changes have been made to boundary treatments as a result of the appeal development which is before me.
34. There is concern that allowing the appeal development would set a precedent. But I do not consider there is any reasonable prospect of harmful similar development being repeated elsewhere as a result of planning permission being granted here.

Conditions

35. For Appeal A, the Council has suggested a condition requiring that the handrail which has been built is replaced with the proposed black, wrought iron handrail within 3 months of the date of approval. But in light of my findings in respect of the existing handrail, set out above, such a condition is not necessary and so I have not imposed it.

36. The Council has also suggested a condition requiring the development in Appeal A to be completed and retained in accordance with specified plans. A condition specifying the relevant plans is necessary in the interests of certainty.
37. But it is not necessary to require that the development in Appeal A is completed and retained, in light of what has already been built, that I am granting planning permission for via Appeal B. So I have imposed a plans condition but not with any requirement for the development to be completed.
38. No conditions have been suggested for Appeal B, nor are there any that I consider are necessary.

Conclusions

39. Appeal A: For the reasons given above I conclude that the appeal should be allowed, subject to a condition.
40. Appeal B: For the reasons given above, I conclude that the appeal succeeds on ground (a). I shall grant planning permission for: 'The installation of access steps with handrail to the rear section of the Land as shown hatched black on Plan 2 attached to the enforcement notice; and the erection of a timber fence and door enclosing the north western elevation shown edged in blue of the pergola which is located within the Land as shown cross-hatched black on Plan 2 attached to the enforcement notice', as described in the enforcement notice.

Formal Decisions

41. Appeal A is allowed and planning permission is granted for: 'Concrete steps & handrail', at The Castle Public House, 30 West Street, Harrow HA1 3EF, in accordance with the terms of the application, Ref P/0643/22, dated 23 February 2022, and the plans submitted with it, subject to the following condition:
- 1) The development hereby permitted shall be carried out in accordance with the following approved plans: 1033/01 A; 1033/02 B; 1033/03 D.
42. Appeal B 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 installation of access steps with handrail to the rear section of the Land as shown hatched black on Plan 2 attached to the enforcement notice; and the erection of a timber fence and door enclosing the north western elevation shown edged in blue of the pergola which is located within the Land as shown cross-hatched black on Plan 2 attached to the enforcement notice', at The Castle Public House, 30 West Street, Harrow HA1 3EF, as shown on the plan attached to the notice.

L Perkins

INSPECTOR