



Appeal Decision

Site visit made on 2 May 2024

by M Aqbal BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 30 May 2024

Appeal Ref: APP/M5450/W/23/3333697

36-37 Kenton Park Parade, Kenton Road, Harrow HA3 8DW

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
 - The appeal is made by Mr J Upadhyay against the decision of London Borough of Harrow.
 - The application Ref is P/1629/23.
 - The development proposed is installation of retractable canopy with timber flower bed at ground floor level to be used for outdoor seating from the times 12:00 to 21:00.
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Decision

1. The appeal is allowed and planning permission is granted for installation of retractable canopy with timber flower bed at ground floor level to be used for outdoor seating from the times 12:00 to 21:00, at 36-37 Kenton Park Parade, Kenton Road, Harrow HA3 8DW in accordance with the terms of the application P/1629/23 and 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 drawing: 36-37KPP/P01.
 - 3) The outdoor seating area hereby permitted shall not be used outside the hours of 12:00 to 21:00, on any day.

Main Issues

2. The main issues are the effect of the proposal on character and appearance and the living conditions of neighbours.

Reasons

Character and appearance

3. The appeal site is a mid-terraced property along Kenton Park Parade. This comprises a parade of commercial uses along the ground floor with mainly residential accommodation above. There is also residential development on the opposite side of the road. The appeal property is occupied as a restaurant and bar along the ground floor.
4. Most notably, the parade of units that the appeal site is a part of are set behind generous forecourts. The forecourts are mainly open but there are some which

incorporate retractable awnings to cover display areas and a couple that include outdoor seating areas. Others are used for vehicle and motorbike parking. As such, these contribute to a varied street scene.

5. The proposed retractable canopy would be of a simple design and at an acceptable height. This canopy would be similar to others in the area and would cover the new outdoor seating area. The timber screens would be of a low height and limited to the sides of the forecourt. The proposed planters are shown to be of a lower height than the side screens. These would incorporate space between them and are to be setback from the edge of the pavement. Although these elements would introduce a degree of enclosure to the forecourt, they would not be unacceptably obtrusive or uncharacteristic for the area.
6. Whilst the proposal would bring some change, this would not be so dominant to harm the appearance of the host property or uncharacteristic to unacceptably detract from the varied character and appearance of the area.
7. The siting of and the spacing between the planters would allow the free movement of pedestrians and other highway users along the wide pavement area. Also, customers and highway users, would be able to access the proposed seating area.
8. For the above reasons, the proposal would accord with Policy CS1 of the Harrow Core Strategy (2012), Policy DM1 of the Harrow Development Management Policies Local Plan (2013) and Policy D3 of the London Plan (2021). Together, and amongst other things, these policies require that developments are of high quality design and respond to and respect the existing character of a place.

Living conditions

9. The proposal would result in the creation of a sizeable outdoor seating area. I acknowledge that the use of this by patrons of the restaurant and bar would result in a degree of activity and general merriment. This would generate some noise and disturbance, which could potentially affect the occupants of nearby residential dwellings.
10. However, the appeal property fronts a busy distributor road (A406) and as I observed this is used by vehicular traffic and therefore noisy. There are also a number of commercial uses in the vicinity of the appeal site, this includes other restaurants and an adjoining tyre fitting premises which uses noisy compressors and machinery. As such, there are already high levels of ambient background noise.
11. Furthermore, the proposed hours of use for the outdoor seating area would be limited till evening only. This could be secured by a condition and is appropriate mitigation to safeguard nearby residents from noise and disturbance. Therefore, the proposed seating area would not be in use during late evening and night time when nearby residents are likely to be resting or sleeping. I am also mindful, that the use of the outdoor seating area is likely to be dictated by the weather. As such, it is unlikely that this would be in use constantly.
12. Drawing on the above reasons, the use of the outdoor seating area is unlikely to unacceptably harm the living conditions of the occupiers of nearby residential accommodation.

13. Accordingly, I find no conflict with policies DM1 and DM38 of the Harrow Development Management Policies Local Plan (2013) and policies D3, D13 and D14 of The London Plan (2021). Amongst other things, these policies seek to ensure that new noise and other nuisance-generating development proposed close to residential and other noise-sensitive uses should put in place measures to mitigate and manage any noise impacts for neighbouring residents to safeguard living conditions.

Other Matters

14. Because the extent of the canopy would be limited to the appeal property, this would not obstruct signage associated with neighbouring businesses. I am satisfied that whilst the operation of airguns in association with the adjoining tyre fitting business would be noisy, it is unlikely that this would unacceptably prejudice the use of the proposed outdoor seating area.
15. The Council notes that the shopfront in the proposed drawing is different from the existing drawings. Irrespective, and as per the description of the proposed development, the scheme before me is not for the design of the shopfront. Therefore, any issues relating to this are separate to the proposal before me.

Conditions

16. In addition to the standard timescale condition, I have imposed a condition specifying the relevant drawing as this provides certainty. In the interests of safeguarding the living conditions of nearby residents, it is necessary to specify a condition ensuring that the outdoor seating area is not in use outside the permitted times.

Conclusion

17. For the above reasons, I conclude that the appeal should be allowed.

M Aqbal

INSPECTOR