
Appeal Decisions

Site visit made on 6 August 2024

by Andrew Walker MSc BSc(Hons) BA(Hons) BA PgDip MCIEH CEnvH JP

an Inspector appointed by the Secretary of State

Decision date: 9 August 2024

Appeal A: Ref APP/N5090/C/24/3339106

161 Ballards Lane, London N3 1LJ

- 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 Dr Amirfarhad Azampanah against an enforcement notice issued by the Council of the London Borough of Barnet.
 - The enforcement notice, numbered ENF/0954/23, was issued on 8 February 2024.
 - The breach of planning control as alleged in the notice is without planning permission the installation of a new shopfront.
 - The requirements of the notice are to:
 - 1 Remove the unauthorised shopfront.
 - 2 Restore the land to the state in which it was in prior to the breach of planning control taking place (as shown in the attached photo taken in April 2022).
 - The period for compliance with the requirements is 3 months.
 - The appeal is proceeding on the grounds set out in section 174(2) (a) (g) of the Town and Country Planning Act 1990 as amended. Since an appeal on ground (a) has been made, the application for planning permission deemed to have been made under section 177(5) of the Act falls to be considered.
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Appeal B: Ref APP/N5090/W/24/3339105

161 Ballards Lane, Finchley, Barnet, London N3 1LJ

- 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 Dr Amirfarhad Azampanah against the decision of the Council of the London Borough of Barnet.
 - The application Ref 23/4171/FUL, dated 26 September 2023, was refused by notice dated 24 January 2024.
 - The development is change of use from A1 (Cafe) to mixed use within Class E as a money exchange and commercial kitchen. New shopfront (Retrospective Application).
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Decisions

1. Appeal A is dismissed and the enforcement notice is upheld. Planning permission is refused on the application deemed to have been made under section 177(5) of the 1990 Act as amended.
2. Appeal B is dismissed.

Appeal A ground (a); Appeal B

Main Issue

3. The main issue of dispute between the parties (in both appeals) is the effect of the new shopfront (currently in place) upon the character and appearance of the appeal property and that of Ballards Lane.

Reasons

4. The appeal property is a 2-storey mid-terraced building within an Edwardian shopping parade upon Ballards Lane within the town centre.
5. The new shopfront consists of a striking design – incorporating a substantial golden circular entrance – which the appellant says represents a deliberate departure from convention intended to inject vitality into the streetscape.
6. While I accept that there is a degree of variety in local shopfronts, and that the eye-catching development certainly adds interest and vitality to the area¹, the juxtaposition of the visually impactful and dominant golden circular entrance with the more conventional angular and rectangular shopfront elements within the context of a traditional early 20th century parade causes it to appear as a harmfully alien feature. The effect is to significantly detract from the character and appearance of this part of Ballards Lane as well as causing associated harm in these respects to the appeal property itself.
7. While it may well be the case that the design reflects elements of historic architecture, I have seen no evidence that the appeal design reflects historic architecture compatible with the local context of Ballards Lane. Further, in response to the appellant's (arguably contradictory) claim as to modernity in the design – and with particular reference to paragraphs 85 and 97d) of the National Planning Policy Framework (the Framework) – the appeal business and property would otherwise be able to grow, develop and modernise without such an incongruous addition to the streetscape.
8. The previous shopfront is said to have been in poor condition, insecure, thermally inefficient and with poor accessibility. I have no reason to find that the new shopfront does not remedy those concerns. However, these benefits do not make the harmfully incongruous design of the new shopfront acceptable and a more harmonious proposal could also provide them.
9. For the above reasons, the appeal development (as regards each appeal) significantly harms the character and appearance of the appeal property and that of Ballards Lane. As such, it is contrary to Policy D3 of the London Plan (2021), Policies CS1 and CS5 of Barnet's Local Plan (Core Strategy) Development Plan Document (2012) and Policy DM01 of Barnet's Local Plan (Development Management Policies) Development Plan Document (2012) which together seek to protect character and appearance.

Planning Conclusions

10. The appeal development does not accord with the development plan² and there are no other considerations which outweigh this finding. There are no planning conditions which would make the development acceptable. Accordingly, I will not grant planning permission in either appeal.

¹ As reflected by some of the comments in third party representations I have seen. While I note and respect received views, they do not outweigh the harm I find to local character and appearance.

² Therefore, contrary to the appellant's claim, the new shopfront does not represent sustainable development for the purposes of the Framework as it does not accord with an up-to-date development plan. I have seen no argument that the plan is not up-to-date.

Appeal A ground (g)

11. For an appeal to succeed on this ground, I must be satisfied that the compliance period for completing the requirements of the notice falls short of reasonable.
12. The appellant asks for 6 months but provides no substantive case that the requirements themselves (remove the shopfront and restore the condition of the land) cannot be reasonably completed within 3 months as set down by the notice. Instead, the appellant says that 3 months is too short a time to achieve planning consent for a new scheme. However, even were this argument pertinent to the success of the ground, it seems to me that any new planning application could reasonably be determined within 3 months.
13. Accordingly, ground (g) does not succeed.

Conclusions

14. For the reasons given above I conclude that Appeal A should not succeed. I shall uphold the enforcement notice and refuse to grant planning permission on the deemed application.
15. For the reasons given above I conclude that Appeal B should be dismissed.

Andrew Walker

INSPECTOR