
Appeal Decision

Site visit made on 27 August 2024

by R Satheesan BSc PGCert MSc MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 04 September 2024

Appeal Ref: APP/U5360/C/23/3322160

38 Stamford Hill, Hackney, London N16 6XT

- 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 Josh Campbell on behalf of Infinity Outdoor against an enforcement notice issued by the Council of the London Borough of Hackney.
 - The enforcement notice was issued on 5 April 2023.
 - The breach of planning control as alleged in the notice is without planning permission, the Installation of metal railings and four downlights on the flank elevation of the Property.
 - The requirements of the notice are:
 1. Remove the metal railings and 4 downlights on the flank elevation of the Property.
 2. Make good all damage to the Property resulting from the removal of the unauthorised works as listed above;
 3. Upon completion of the above steps, remove all materials, debris, waste and equipment resulting from compliance with the other requirements of the notice from the property and its premises.
 - The period for compliance with the requirements is 3 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.
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Decision

1. The appeal 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.

Ground (a) appeal and the Deemed Planning Application (DPA)

Main Issue

2. The main issues is the effect of the development on the character and appearance of the host building and the area.

Reasons

Background and Preliminary

3. A complaint regarding the display of an advertisement on the flank wall on the appeal building was made on 15 April 2022. Following a warning letter sent by the Council on 18 October 2022, the advertisement shroud was removed, but metal railings and four downlights on the flank elevation of the building

remained. Since the warning letter required the removal of all apparatus associated with the advertisement, the Council served an enforcement notice in relation to the metal railings and the four downlights only (the subject of this appeal). I shall therefore deal with these unauthorised works, as alleged within the notice.

Character and appearance

4. The appeal site comprises the flank wall of an end of terrace building, made from yellow stock brick and rendered walls, which compliments the traditional materials seen elsewhere in the appeal terrace.
5. In contrast, the current unauthorised development, comprises metal railings which cover a large section of the flank wall, poorly finished in white paint. These railings in combination with the 4 downlighters positioned 'proud' of the building, is at odds with the more traditional materials found elsewhere on the appeal building and appeal terrace generally. This results in a visually discordant and incongruous feature which is clearly visible from various public vantage points along Stamford Hill and Belfast Road. The unauthorised development, results in visual clutter in the streetscene which diminishes unacceptably the character and appearance of the host building and the area. None of the other matters raised by the appellant, including that the wall is regularly maintained to remove graffiti overcomes this harm.
6. I accept that the area has a mix of commercial and residential uses and that advertisements have previously been approved and displayed on the flank wall of the appeal site¹. The appellant states that this was removed for a brief period during the Covid-19 pandemic. Nevertheless, none of those previous advertisement consents appear comparable to the size, scale and design of the current metal railings and downlights before me. I also note that the metal framework of the current development cover a larger proportion of the flank wall of the building, and therefore those earlier advertisements do not lend support for the current unauthorised development.
7. Given the history of the site for the display of advertisements, the appellant considers that deemed consent by Class 13² remains. However, Class 13 does not apply given that there has been a material increase in the extent to which the site has been used. In particular, the current framework, relates to a larger area of the flank wall than the previous advertisements. Furthermore, 4 external downlighters have been installed and this is a material change from the previous internally lit advertisement. Therefore, any deemed consent that had been built up over the previous 10 years has been lost.
8. In addition, the Google Street view images submitted by the Council demonstrate that the advertisement which was previously maintained was removed entirely in September 2020 and then the current development, was installed by June 2022. Following a Council investigation, a warning letter was sent by the Council on 18 October 2022, and the advertisement shroud was removed, but metal railings and four downlights remained, which led to the

¹ Council ref: 2007/1116; 2015/1084; 2007/0476/ENF.

² Class 13: Grants deemed consent for an advertisement that has been displayed on a site continually for 10 years without any express consent.

current notice being served in April 2023. As such there were two periods of time, during the preceding ten years when the flank wall was not in use for the display of adverts and so the requirement of continual use has not been met.

9. I therefore conclude that the development harms the character and appearance of the host building and the area. In this respect the development conflicts with policy LP1 of the Hackney Local Plan 2033 (2020); and policies D3 and D4 of the London Plan (2021). Amongst other things these seek to deliver good design; require that all new development must be of the highest architectural and urban design quality; and that development must improve the public realm and frontage to the street.

Conclusion

10. For the reasons given above, I conclude that the appeal should not succeed. I shall uphold the enforcement notice and refuse to grant planning permission on the application deemed to have been made under section 177(5) of the 1990 Act as amended.

R Satheesan

INSPECTOR