



## Appeal Decision

Site visit made on 5 February 2015

by **Andrew Dale BA (Hons) MA MRTPI**

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 24 February 2015

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### Appeal Ref: **APP/X5210/C/14/2213715**

#### **Land at Heathfield Park, 6 Merton Lane, London N6 6NA**

- 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 Alexander Bronstein against an enforcement notice issued by the Council of the London Borough of Camden.
  - The notice was issued on 13 December 2013.
  - The breach of planning control as alleged in the notice is "The installation of 4 retractable Bollards (sic) to private driveway of dwelling house".
  - The requirements of the notice are to: "Remove the Bollards (sic) and reinstate the drive to match existing surfacing".
  - The period for compliance with the requirements is 2 months.
  - The appeal is proceeding on the grounds set out in section 174(2) (a) and (f) of the Town and Country Planning Act 1990 as amended.
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### Decision

1. It is hereby directed that the enforcement notice be corrected by altering the word "Hampstead" to the word "Highgate" in paragraph 4b) and by the deletion from paragraph 2 of the words "Heathfield Park Lane 6 Merton Lane N6 6NA" and the substitution therefor of the words "Heathfield Park, 6 Merton Lane, London N6 6NA". Subject to those corrections, 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.

### The enforcement notice

2. Reading the written representations, the parties are plainly aware that the site lies within the Highgate Conservation Area and not the Hampstead Conservation Area as stated in paragraph 4b) of the enforcement notice. In addition, I believe that the site address at the top of the enforcement notice (as repeated in the heading of this decision above) is correct. However, this has not been carried through into the site address given in paragraph 2 of the enforcement notice. Both these matters can be corrected without causing injustice to any party.

### Procedural matters

3. The Council failed to send a representative to the accompanied site visit arranged in connection with this appeal. After establishing with the appellant's representative that the 4 retractable stainless steel bollards were not
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operational and could not be viewed in their raised position, I briefly viewed the upstanding stainless steel bollards of a similar size and height alongside the drive immediately behind the entrance gates to the appeal property. My site inspection was completed on an unaccompanied basis and I am satisfied that I have sufficient information to determine this appeal. Neither the Council nor the appellant has raised any procedural objections to this approach.

4. A traffic light is partly embedded in vegetation adjacent to the entrance gates. This is functionally linked to the 4 retractable bollards insofar as the red and green lights signal that the bollards are up or down respectively. However, the installation of the traffic light is plainly a separate operational development and it is not the subject of the alleged breach of planning control or the requirements set out in the enforcement notice. I therefore make no further comment upon it.

### **The appeal on ground (a) and the deemed planning application**

5. In assessing whether planning permission ought to be granted for what is alleged in the notice, the main issues for consideration are whether the development preserves or enhances the character or appearance of the Highgate Conservation Area and its implications for highway safety.
6. The appeal site falls within the Highgate Conservation Area on the north-western side of Merton Lane at a point where Merton Lane leads down towards Hampstead Heath. Gardens of generous size, the close proximity of Hampstead Heath, sloping grass verges and the heavy foliage and mature trees along Merton Lane, especially to the south-west of the appeal site frontage, all combine to lend a distinctly rural feel to this part of the conservation area.
7. Contributing to and complementing this rural character and appearance are the rough stone bollards alongside the north-western side of Merton Lane as identified in Appendix 5 (streetscape audit) of the Council's Highgate Conservation Area Appraisal and Management Strategy (HCAAMS). Those bollards start close to the junction of Merton Lane with Highgate West Hill to the north-east and finish a short distance beyond the south-western side of the appeal site access. Those to the south-west of the access are largely overgrown by vegetation.
8. The house at Heathfield Park is set back a considerable distance from the road. There is a wide vehicular entrance to Merton Lane. The 4 stainless steel bollards are circular, about 0.6 m in height when raised and about 0.2 m in diameter. They are set about 2.4 m to 2.5 m away from the stone blocks that mark the edge of the public carriageway. Whilst they are slightly further away from the road edge than the stone bollards, they are more closely spaced together and are still prominent in the Merton Lane street scene. The HCAAMS notes that this area is much used by members of the public requiring access to the Heath.
9. Whilst there is pressure for off-street parking in the locality and casual off-street parking may take place in the wide vehicular entrance from time to time, adding to the visual clutter in the street scene, I am not convinced that this justifies the installation of 4 stainless steel bollards which are permanent and so out of keeping with the rural qualities of this street scene, on account of their design, material, finish, prominent siting and awkward clash with the

rough stone bollards. To my mind, they are one of the types of insensitive, inappropriate and excessive security measures at front boundaries the HCAAMS seeks to resist.

10. I therefore find that the development fails to preserve or enhance the character or appearance of the Highgate Conservation Area. Whilst the harm would be less than substantial harm to the significance of the designated heritage asset – the conservation area – this harm would not be outweighed by any public benefits of the development. In view of the importance and weight to be given to the preservation and enhancement of conservation areas, the objection that I have found is a serious one. The development conflicts with Policy CS14 of the Camden Core Strategy 2010 and Policies DP24 and DP25 of the Camden Development Policies 2010 which, when read together, emphasize the need to ensure high quality design and conserve Camden’s heritage. These policies are broadly consistent with the National Planning Policy Framework.
11. Subject to certain restrictions, parking is permitted in bays marked out by dotted white lines on the south-eastern side of Merton Lane. There are double yellow lines on the side where the appeal property is located. It is not possible for opposing cars to pass each other on sections of the street where there are parked vehicles. Forward visibility is partly restricted by parked vehicles and by the bend in the carriageway to the north-east of the appeal site access.
12. The 4 bollards themselves do not appear to obstruct passing traffic on Merton Lane. However, the appellant says that the scheme ensures that no vehicle can park between the double yellow lines and the bollards. At the same time, and noting that vehicles are not permitted to park on this side of the road by virtue of the double yellow lines, there is no space for a vehicle seeking to enter the site to wait (whether the driver has a remote control facility or not) while the bollards are lowered, other than on the highway. This is likely to lead to short term and longer term blockages and hindrance to traffic passing up and down Merton Lane. I find that such obstruction to the flow of traffic is likely to disrupt the highway network and its function.
13. I therefore find that the development has adverse implications for highway safety, in conflict with the aims of Policy CS11 of the Camden Core Strategy 2010 and Policy DP21 of the Camden Development Policies 2010 which seek to avoid harm to the management of the road network and are broadly consistent with the National Planning Policy Framework.
14. My findings on the main issues determine the outcome of this ground (a) appeal. I have had regard to all other matters raised including the appellant’s apparent willingness to discuss and negotiate an alternative option. However, no detailed alternative scheme has been submitted for consideration concerning changes in the colour of the bollards, a reduction in their size or a change in their position. My concerns therefore remain unchanged. As the Council indicates, the appellant is at liberty to submit a new planning application for a different scheme and this would have to be assessed on its own merits by the Council in the first instance.
15. As it is, there is conflict with the development plan and no material considerations of sufficient weight to justify planning permission. I conclude

that the appeal on ground (a) should fail and that planning permission should not be granted on the deemed application.

**The appeal on ground (f)**

16. On ground (f) the appellant suggests that should amendments to the development make it acceptable they could be secured by a planning condition. This line of argument is more suited to ground (a) and I have already considered the appellant's suggestions under ground (a). I could not find an appropriate way forward in this regard.
17. The enforcement notice, when read as a whole, is plainly directed at remedying the breach of planning control. What must be considered here is whether the requirements of the notice exceed what is necessary to achieve the objective of remedying the breach of planning control. In the case of operational development like this, it would be appropriate to require the removal of the bollards and the reinstatement of the drive to match the existing surface. This would restore the land to its condition before the breach took place, thus remedying the breach. In effect this is what the subject notice seeks to do. The requirements are not excessive or unreasonable.
18. I conclude that the requirements of the notice do not exceed what is necessary to remedy the breach of planning control. In the light of the conflict with development plan policies, it would not be disproportionate to require the appellant to carry out the steps required by the notice. The appeal fails on ground (f).

*Andrew Dale*

INSPECTOR