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# Appeal Decision

Site visit made on 25 April 2023

by **E Griffin LLB Hons**

an Inspector appointed by the Secretary of State

Decision date: 25<sup>th</sup> May 2023

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**Appeal Ref: APP/B5480/C/22/3301693**

**Grangewood Transport Cafe, New Road, Rainham, RM13 9PH**

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended. The appeal is made by Mr Lenios Sophocleous against an enforcement notice issued by the Council of the London Borough of Havering.
- The notice was issued on 10 June 2022.
- The breach of planning control as alleged in the notice is without planning permission, the enlargement of the café shop front with a canopy extension, in the approximate area hatched red on the attached plan.
- The requirements of the notice are:
  - (1) Remove of all the canopy extension and its fittings, as well as any and all associated development in the approximate area hatched red on the attached plan:  
AND
  - (2) Remove all materials, rubble and debris from the site as a result of taking step (1) above.
- The period for compliance with the requirement is 2 months
- The appeal is proceeding on the ground 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 allowed and 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 enlargement of the café shop front with a canopy extension at Grangewood Transport Café, New Road, Rainham, RM13 9PH shown on the plan attached to the notice and subject to the following condition:

- 1) No use of the canopy extension including any seating within it shall take place between the hours of 10.00p.m and 7.00a.m on any day.

## Main Issue

2. The main issue is the effect of the canopy extension on the character and appearance on the host building and the wider area.

## Reasons

3. Grangewood Transport Café is located on the western side of New Road which is an A road close to the junction with Upminster Road South. The appeal site is roughly triangular and contains the café building to the north apex of the triangle whilst the rest of the site is available for customer parking. At both

- ends of the appeal site closest to the road, there are areas of mature planting with sets of large advertising billboards.
4. The garden of No 244 Upminster Road South is behind the appeal site but separated from it by a border of mature trees and hedges. There are shops on the opposite side of New Road with a customer car park with residential development to the south. The character of the area in the vicinity of the development is mixed and the appeal site is not visually associated with other buildings as there are no buildings close by.
  5. The café is a single storey flat roofed building which is set back from the road. Whilst the building itself is white, the signage on the fascia boards across the front is black and white. The canopy extension to the front of the café was erected during the Covid 19 pandemic to provide an external seating area. The frame of the development is made of timber and painted black and there are clear plastic sheet curtains to provide protection from the elements. The development extends out from the front of the building. The generous car park has an open spatial character when the car park is not occupied. However, as the modest development is located to the front of the host building, its presence does not detract from the open nature of the rest of the appeal site.
  6. The design of the development is functional and simple and does in my view reflect the simple design of the café building. The signage to the front is still largely visible despite the development extending out from the fascia board. There are limited wider views of the development as it is not as high as the café building. Whilst the Council refers to a 45% increase in footprint, the canopy structure with either open sides or plastic sheeting does not appear to be excessive in size in comparison to the café itself. The black frame complements the black and white sign and the development does integrate with both the café building and its surroundings and is not out of keeping.
  7. For the reasons given, I find the development does not harm the character and appearance of the host building or the surrounding area. It is not in conflict with the objectives of Policy 26 of the Havering Local Plan (2016-2031) which refers amongst other things to development respecting features of the local area and integrating with surrounding buildings. I do not consider that the development is contrary to Policies D4 and D5 of the London Plan 2021 or Paragraph 130 of the National Planning Policy Framework which collectively support good and inclusive design.
  8. I find Policy D1 of the London Plan 2021 to be less relevant than the other policies referred to as it refers to defining an area's character to understand its capacity for growth. Similarly, the Council has not indicated how Policy D8 of the London Plan 2021 which deals solely with "Public Realm" is relevant to the development. As Policies GG1 and GG2 of the London Plan 2021 refer to "building stronger and inclusive communities" and "making the best use of land", I also find these policies to be less relevant than the other policies that have been relied upon by the Council.

#### Conditions

9. The Council has suggested two conditions. Originally a condition to not permit the use of the development between 10p.m. and 5.00a.m. was suggested by the Council which was then altered to 7.00a.m. As the café currently opens at 7.00a.m, I agree that a condition preventing use of the canopy extension

between 10.00p.m and 7.00a.m is appropriate. An hours restriction would ensure that the amenities of occupiers of No 244 Upminster Road South are not affected by late or early noise. It is not necessary to specifically refer to outdoor seating as it is clear from the wording that the condition restricts use of the canopy and the seating within it. Any seating beyond the canopy is not part of this appeal.

10. The second condition proposed by the Council arises from its interpretation of Section 91 of the Act and seeks to backdate the planning permission to the date of substantial completion of the development. However, Section 91 deals with when development must be begun. As the canopy extension already exists, no time limit for commencement needs to be stated or implied. The date of the grant of planning permission is the date of this Decision Letter.

### **Conclusion**

11. For the reasons given above, I conclude that the appeal succeeds on ground (a). I shall grant planning permission for the development as described in the notice subject to the condition.

*E Griffin*

INSPECTOR