
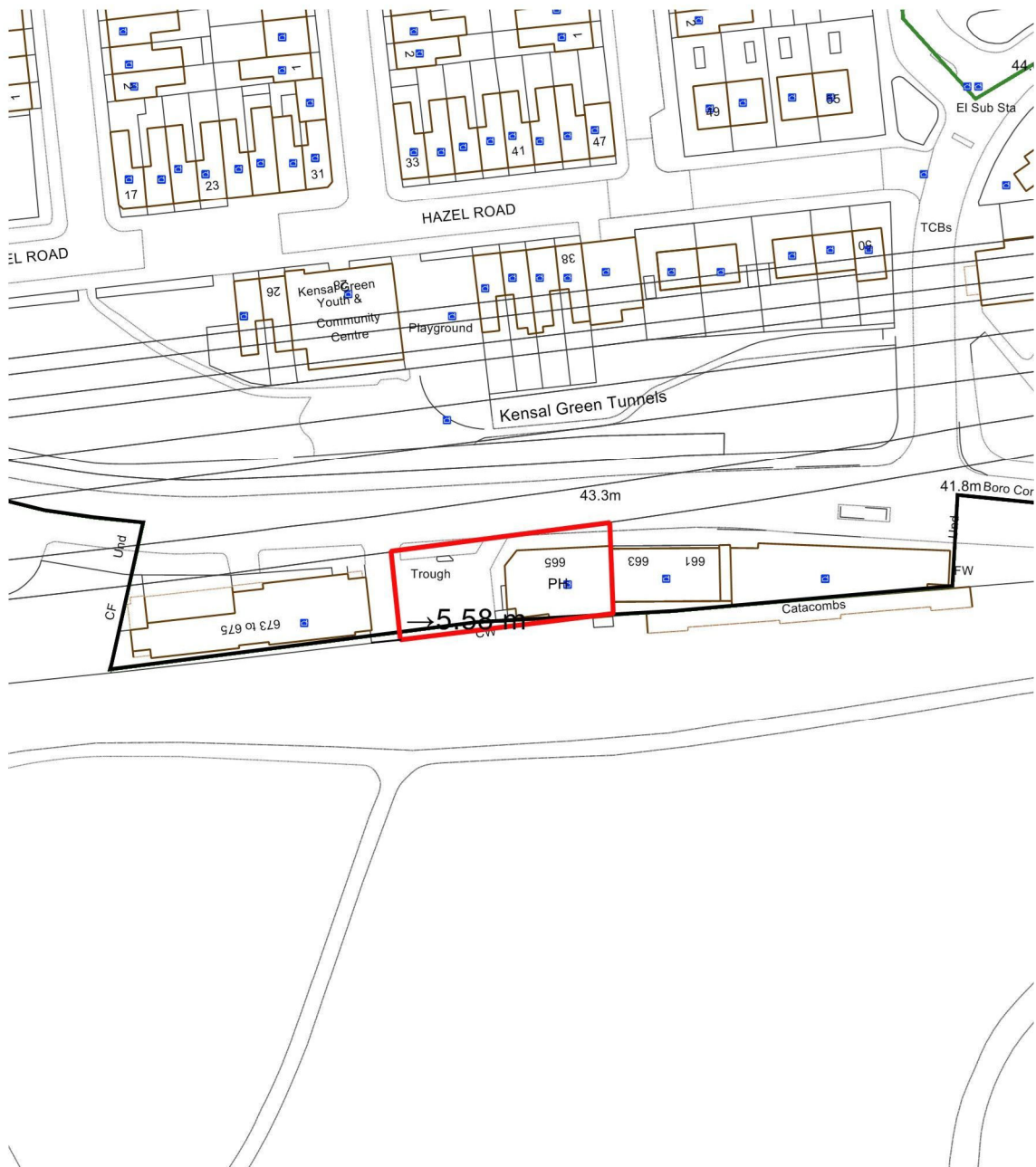


**Committee Report
Planning Committee on 15 February,
2012**

Case No.

11/2038

 **Planning Committee Map**
Site address: 665 Harrow Road, London, NW10 5NU
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This map is indicative only.

RECEIVED: 4 January, 2012

WARD: Kensal Green

PLANNING AREA: Harlesden Consultative Forum

LOCATION: 665 Harrow Road, London, NW10 5NU

PROPOSAL: Retrospective application for a decked area in the existing beer garden; the erection of a timber-framed bin enclosure and the relocation of a timber fence to side/rear of the premises.

APPLICANT: Realpubs Ltd

CONTACT: Smith Coldham Design Ltd

PLAN NO'S:
Please see condition 2

RECOMMENDATION

Grant consent subject to conditions

EXISTING

The site is occupied by the Masons Arms Pub which has an associated beer garden. The property also contains a grade II listed horse trough that is enclosed by a pergola to the side of the property. A builders yard is located to the South of the beer garden. The builders yard gains access to the west of the beer garden. The property is not located within a Conservation Area. The works proposed have been substantially completed.

PROPOSAL

See above

HISTORY

An enforcement investigation (E/11/0204) for the installation of wooden decking to form elevated seating area in rear garden of the premises; the erection of timber-framed bin enclosure and relocation of timber-framed fence to rear of the premises is ongoing.

Full planning application (Ref No: 06/0884) for the retention of existing pergola along the Harrow Road side of the beer garden was granted permission on 26 May 2006.

Full planning application (Ref No: 05/2925) for the erection of new 2.1 metre high brick and railing boundary to enclose the existing external seating and servicing area (as revised by plans received on 08/12/2005) was granted permission on 8 December 2005.

POLICY CONSIDERATIONS

London Borough of Brent Unitary Development Plan 2004

BE2 Townscape: Local Context & Character
BE9 Architectural Quality

CONSULTATION

An application was received in 2011, 5 Neighbouring properties were consulted on 14 October 2011. The application was subsequently made invalid when it became clear that the necessary notices had not been served on the relevant parties. The application was re-validated on 4 January 2012

The Local Authority has received 2 objections to date. The principle objections are noted as:

- The reduced width of the access from approx 7m to approx 4m will not permit flexible use of the builders yard, thereby reducing productivity.
- Loss of old cobble stones
- The beer garden located adjacent to the cemetery causes disturbance to grieving family members
- The building works caused stress to neighbouring properties
- During building works (4 weeks) no access to the storage yard was gained
- The new boundary fence was attached to a neighbouring property without consent
- The application was not made by the lawful owner.
- The construction of a fence around the listed feature

The original submission indicated the bin enclosure at 2.5m wide. During the assessment of the application officers found the bin store to be built at 3m wide and not 2.5m as indicated. An amended submission correctly reflecting the size of the bin enclosure was received and a 14 day re-consultation period began on 1st of February 2012. Members will be briefed on the outcome of this consultation. For the avoidance of doubt the width of the access is unchanged as the wider binstore takes space from within the beer garden.

Transportation:

No objection:

subject to gates not opening onto pavement

- The pre-existing access area is not wide enough to provide a standard sized turning head for small vehicles
- The provision of refuse and recycling storage is welcomed in principle

Streetcare

No objection:

- The bin enclosure is large enough to accommodate servicing of the pub - based on a weekly service

It is unfortunate that no recycling facilities have been provided, however this form of servicing is not statutory and it is likely recycling is accommodated for by a private contractor.

REMARKS

Context

The proposal seeks permission for the retention of a decked area in the existing beer garden; the erection of a timber-framed bin enclosure and the relocation of a timber fence to side/rear of the premises. For the information of Members some context on the proposal including explanations of other developments shall be addressed in turn:

Planning History

- In 2005 an application for the existing pergola adjacent to Harrow Road was granted permission
- In 2006 an application for the existing front boundary treatment enclosing the beer garden was granted permission
- The beer garden is an ancillary use to the pub and therefore does not require express planning permission
- The external cooking area enclosed in a single storey building has been insitu since 2004 and is lawful benefiting from deemed consent

- No part of the proposed development affects the setting of the grade II listed trough, therefore a listed building consent is not required for the current application.

Ownership and Access

Whilst Members are aware that ownership disputes are civil matters the points raised by objectors are summarized below:

- The application is not made by the owner of the property
- The reduced width of the access from 7m to 4m will not permit flexible use of the builders yard, thereby reducing productivity.

Originally the applicant incorrectly filled in Certificate A on their application, stating they were the only party that had an interest in the land. Subsequently, the applicant filled in Certificate B of the planning application form stating all necessary parties have been served with the relevant notices. Although it has been queried the matter falls beyond the remit of planning control and can not form a reason for refusal.

The Beer garden and access to the builders yard do not belong to the pub, but rather are in third party ownership. Occupiers of the builders yard have a right of access over the third party land. These rights of access are detailed in the title deed as, *'...has benefit of a right to enter upon and use the surface of the land (i.e. third party land - constituting the beer garden and adjacent access) ... as garden ground and for agricultural purposes or for other purposes except building as the same may be properly applied to without injury to the tunnels of the London and North Western Railway Company'*

The pre-existing access arrangements saw lorries reversing into the builders yard and leaving in a forward gear. The relocation of the fence (in particular) resulted in the width of access being reduced from 7m to 4m. The 4m access continues to allow lorries to reverse into the property and leave in a forward gear.

Whilst it is acknowledged the new narrower access no longer permits a small vehicle to carry out a multi-point turn and leave in a forward gear there is still scope for similar manoeuvring to take place on the builders yard.

Although neither the pre-existing or current arrangement are ideal, the fact that the builders yard is still accessible and turning facilities are still permitted, albeit somewhat more restrictively, means that no objection on principle is raised.

Retention of decked area.

The dark wood decked area has been built over cobble stones and is contained within the beer garden. The new decking extends around the external cooking area, has a height of 300mm and is bound by 1.1m high safety balustrades.

The pre-existing cobble stones are not protected features and are not considered to form an integral part of the character of the pub, therefore no objection is raised with their loss in principle. However replacement materials should be at least as attractive. Timber is a traditional material and is considered to be a suitable replacement.

The new decked area, seeks to improve the amenity provided by the existing beer garden. As the decked area is contained within the beer garden, not visible from or to any neighbouring properties at ground floor, it is not considered that the new decking will create any additional loss of amenity to neighbouring residents. Further, the new wooden decking provides better pedestrian access and mobility as the cobbles were old and slippery.

Your officers consider the decked dark wood timber area to be an acceptable replacement material that respects neighbouring amenity and enables better pedestrian access and movement.

Bin Enclosure

The timber bin enclosure has a height of 1.8m, a width of 3m wide and a depth of 1.2m. The enclosure is capable of accommodating 2x 1100L bins which will be serviced once a week. Recycling details have not been supplied, however recycling is not a statutory requirement of the pub.

The original submission saw the bin doors opening onto the pavement. Your officers considered this arrangement to cause detrimental harm to highway and pedestrian safety. The submission has since been amended to accommodate slide track doors that will not encroach onto the pavement but slide behind the existing metal railing boundary treatment. This arrangement is now considered to be acceptable.

The bin store is constructed of timber and will be stained in an agreed colour. Details of which shall be secured by condition.

The pre-existing situation resulted in the bins being left on pavement. The principle of the refuse storage area is therefore supported.

Relocated boundary fence

The Western 1.8m high boundary fence has been moved by 3m so as to be sited on the access path of the rear builders yard. The remaining 4m vehicle access and a 1.5m wide pedestrian access is considered to be wide enough for the rear yard to be accessed as discussed above.

The objection to the reduced width of the access claims the rear yard will not be in a position to operate flexibly resulting in reduced productivity. As explained above officers are of the view the yard will still be accessible, and can therefore not form a reason for refusal

Response to Objections

The requirements for nuisance control during building works are not covered by the Town and Country Planning Act. However any further development (e.g. Change in bin doors, treatment of boundary fence etc) will be required to meet requirements under the 'Control of Pollution Act 1974'. The applicant will be reminded of their responsibilities by way of an informative

The matter of access and the fence being attached to a private boundary treatment is not a matter for the Council as these constitute civil disputes.

The concern about works being carried out without prior approval or notice is obviously unfortunate but is essentially a civil dispute between the parties. It would be difficult to make a planning decision on this basis.

All other matters have been addressed in the body of this report.

Conclusion

Whilst your officers acknowledge your objectors are extremely unhappy about the development, it appears that most objections raised are not covered by the Town and Country Planning Act and are matters for the parties to resolve between themselves. The operational development that forms the subject of this report is acceptable in planning terms as discussed, therefore a recommendation to approve subject to conditions is set forward.

REASONS FOR CONDITIONS

RECOMMENDATION: Grant Consent

REASON FOR GRANTING

- (1) The proposed development is in general accordance with policies contained in the:-

Brent Unitary Development Plan 2004

Relevant policies in the Adopted Unitary Development Plan are those in the following chapters:-

Built Environment: in terms of the protection and enhancement of the environment

CONDITIONS/REASONS:

- (1) The development hereby permitted shall be carried out in accordance with the following approved drawing:

5604-11-101B
Outline Garden Design V2
5604-11-102B

Reason: For the avoidance of doubt and in the interests of proper planning.

- (2) The replacement doors shall be installed within 3 months of date of this permission. The work shall be carried out in accordance with the approved details.

Reason: In the interest of Highway Safety .

- (3) Details of treatment (including colour) of wooden bin enclosure and associated fence for shall be submitted to and approved in writing by the Local Planning Authority within 3 months of date of permission. The work shall be carried out in accordance with the approved details.

Reason: To ensure a satisfactory development which does not prejudice the amenity of the locality.

INFORMATIVES:

- (1) The applicant is advised that during any works on site:
- The best practical means available in accordance with British Standard Code of Practice B.S.5228: shall be employed at all times to minimise the emission of noise from the site
 - The operation of site equipment generating noise and other nuisance-causing activities, audible at the site boundaries or in nearby residential properties, shall only be carried out between the hours of 0800 - 1700 Mondays - Fridays, 0800 - 1300 Saturdays and at no time on Sundays or Bank Holidays
 - Vehicular access to adjoining premises shall not be impeded
 - All vehicles, plant and machinery associated with such works shall at all times be stood and operated within the curtilage of the site only
 - No waste or other material shall be burnt on the application site

REFERENCE DOCUMENTS:

Any person wishing to inspect the above papers should contact Tanusha Naidoo, The Planning Service, Brent House, 349 High Road, Wembley, Middlesex, HA9 6BZ, Tel. No. 020 8937 5245