
Appeal Decision

Site visit made on 17 January 2017

by Richard S Jones BA (Hons) BTP MRTPI

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

Decision date: 13 February 2017

Appeal Ref: APP/C5690/W/16/3160072

109, The Tamla, Wells Park Road, London SE26 6AD

- 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 Ms Caroline Syson against the decision of the Council of the London Borough of Lewisham.
 - The application Ref DC/14/087819, dated 3 June 2014, was refused by notice dated 7 July 2016.
 - The development proposed is the refurbishment of the existing Public House, conversion of existing residential accommodation into 4 No. residential units including proposed additional floor level.
-

Decision

1. The appeal is allowed and planning permission is granted for the refurbishment of the existing Public House, conversion of existing residential accommodation into 4 No. residential units including proposed additional floor level at 109, The Tamla, Wells Park Road, London SE26 6AD, in accordance with the terms of the application, Ref DC/14/087819, dated 3 June 2014, subject to the conditions set out in the Schedule attached to this decision.

Application for costs

2. An application for costs was made by Ms Caroline Syson against the Council of the London Borough of Lewisham. This application is the subject of a separate Decision.

Main Issues

3. The main issues are:
 - the effect of the proposed development on the character and appearance of the host building and the surrounding area;
 - whether the proposed development would provide acceptable living conditions for future occupants, with particular regard to noise and disturbance; and
 - the effect of the proposed development on the viability and operation of the public house.
-

Reasons

Character and appearance

4. The appeal relates to The Tamla public house which is situated in a prominent location on the corner of Wells Park Road and Coombe Road. It is a three storey building finished at ground floor level in what appears to be channelled painted render with a cornice separating it from the upper floors which are finished in a yellow London stock brick with contrasting red brick detailing. A painted parapet runs across the roof line of its two principal elevations, partly concealing a shallow hipped roof behind.
5. The building is not listed and is not situated within a conservation area. Nevertheless, it is of heritage interest and may reasonably be considered a heritage asset. It also responds well to its corner location and makes a positive contribution to the character and appearance of the area, despite its somewhat tired appearance.
6. Whilst some alterations are proposed to the existing main elevations, the majority of the features of heritage value would not be harmed. Indeed many such features would be retained and restored, thereby improving its current appearance.
7. Although clearly introducing a new and prominent third floor level, the proposed mansard style roof would be compatible and respectful of the design of the existing building, as well as the surrounding area, where there are a number of similar roof types. It would also be set back from the existing parapet and partly concealed by the same, thereby minimising the overall scale and bulk from the public realm.
8. A number of the original chimneys would be retained, although I acknowledge views of them would be obscured from a number of directions. The use of slate tiles to the roof and lead cladding to the dormer projections would represent good quality finishes that complement the existing building. The siting and proportions of the proposed dormers would also be acceptable, aligning with the existing arrangement of windows below. Therefore, although clearly visible, the proposed roof extension would not unduly dominate or detract from the original character and historic value of the building.
9. The proposed three storey side extension would be of limited width and would use matching materials and continue the architectural detailing of the principal elevations. It would therefore relate well to the existing building and would not unduly unbalance its proportions or composition. Moreover, given the limited width and separation to the nearest residential property on Coombe Road, the extension would not result in an overbearing impact on the occupants of that property.
10. The proposal would also facilitate the restoration and repair of the existing building and given that it is currently vacant and falling further into disrepair, this is a matter which also weighs in its favour.
11. I therefore conclude on this main issue that the proposed development would not be harmful to the character and appearance of the host building or the surrounding area and as such would not result in conflict with Core Strategy

Policy¹ 15 or DM Policies² 30, 31 and 37. These seek, amongst other matters, to ensure the highest quality design and the protection of the local distinctiveness of the borough by sustaining and enhancing the significance of non-designated heritage assets.

Living conditions and the vitality and operation of the public house

12. I recognise that the re-use of the ground floor as a public house and associated outdoor activities could result in potential harm to the living conditions of the proposed independent residential units above and that prospective operators of the public house may be concerned about potential complaints from future occupants. However, paragraph 203 of the National Planning Policy Framework (the Framework) states that local planning authorities should consider whether otherwise unacceptable development could be made acceptable through the use of conditions. In this case, I see no reason why such harm cannot be satisfactorily mitigated by way of conditions requiring provision of suitable sound insulation measures to ensure satisfactory living conditions for future occupants, thereby reducing the likelihood of future complaints.
13. The proposed internal configuration would also provide acceptable levels of living space and outlook for future occupants. Although I acknowledge, due to the constraints of the site, that no private amenity space would be provided, given the very close proximity of the site to Sydenham Wells Park, this would not, in this case, be sufficient reason to withhold planning permission.
14. Accordingly, I find that the proposed development would provide acceptable living conditions for future occupants and as such would not result in conflict with DM Policy 32, which seeks, amongst other things, to secure a good standard of amenity for all existing and future occupants of land and buildings.
15. On this basis it would be unlikely that any perceived incompatibility of the commercial and residential use would serve to compromise the viability and operation of the public house. Indeed, the public house is not presently in use and appears to be in a relatively poor state of repair. I have no evidence that this position would likely change if this appeal were to be dismissed. Indeed the appellant has advised that the building has not been used as a public house since 2013, despite being marketed for sale for such use since that time.
16. Although I have limited evidence to this effect and I note the concerns expressed that the public house has been neglected in recent years and that it has not been sufficiently marketed, nevertheless, at the time of my site visit, for sale signs were attached to the building, with a price reduced tag. Whilst it is suggested that a number of breweries might be interested in the premises, I have not been provided with any evidence of the same or that ancillary accommodation is key to the viability of public houses. It appears to me therefore, that there is a significant prospect of continued vacancy and decline, should this appeal be dismissed. This further weighs in favour of the proposal. Moreover, the incentives arising from the proposed investment in its fabric would in my view outweigh any negative perceptions relating to incompatibility.
17. As the public house use would be retained as part of the proposal and therefore the opportunity for social gathering, there would be no conflict with DM Policy 20, which seeks to restrict the change of use or redevelopment of the same.

¹ Lewisham Local Development Framework Core Strategy Development Plan Document

² Lewisham Local Development Framework Development Management Local Plan

Moreover, the reconfiguration of the public house at basement and ground floor level would provide improved facilities, including a kitchen, and would not severely limit its function as submitted. Furthermore, I have no evidence to suggest that the relatively modest reduction in the size of the bar area would make it so small so as to be uneconomic. I acknowledge that the main toilets would be moved to the basement level but this is not uncommon and reasonable provision would be made with an accessible toilet at ground floor level.

Other matters

18. Given the size of the proposed mansard roof and its position in relation to the adjoining residential properties, I do not consider that the proposal would result in the material loss of light to those dwellings. Although I note the concerns expressed over the use of the public house recommencing, this could occur at any time without the requirement of planning permission.
19. I agree that the residential bin stores are not well located in relation to the units themselves, but this would not be sufficient reason to withhold planning permission.
20. Whilst concern has been expressed about the use of the existing chimneys, I am satisfied that matters relating to ventilation and fume extraction can be satisfactorily resolved by way of condition. Matters relating to fire escape routes would be dealt with under Building Regulations.
21. I acknowledge the concern that a future application may be made for the use of the public house for residential purposes, but this is not the proposal currently before me and this is a matter which would be within the control of the local planning authority.

Conditions

22. I have had regard to the conditions that have been suggested by the Council. In addition to the standard condition that limits the lifespan of the planning permission, I have specified the approved plans for the avoidance of doubt and in the interests of proper planning.
23. The Planning Practice Guidance advises that care should be taken when using pre-commencement conditions. However, in this case a condition relating to the provision of appropriate sound attenuation between the public house at ground floor level and the residential use above is so fundamental to the development permitted that it would have otherwise been necessary to refuse the whole permission.
24. Conditions relating to residential and commercial refuse and cycle storage facilities are necessary to serve the needs to development. A condition relating to the ventilation system is necessary to protect the living conditions of existing and future residents. Given the control provided by this condition, I am not convinced that it is necessary or that exceptional circumstances exist to justify withdrawing permitted development rights to ensure that the fume extraction or other pipes are not fixed to the external faces of the building.
25. However, given the aim of DM Policy 20 to prevent the loss of public houses, there is clear justification for the removal of permitted development rights to prevent its change of use.

26. I have amended the wording for some of the conditions suggested by the Council to ensure compliance with the provisions of paragraph 206 of the Framework.

Conclusion

27. For the reasons given above, and taking into account all other matters raised, I conclude the appeal should be allowed.

Richard S Jones

Inspector

SCHEDULE OF CONDITIONS

1. The development hereby permitted shall begin not later than three years from the date of this decision.
2. The development hereby permitted shall be carried out in accordance with the following approved plans: S.00; EX.01; EX.02; EX.03; EX.04; EX.05; EX.06; EX.07; EX.08; EX.09; GE.00 Revision 4; GE.01 Revision 4; GA.01 Revision 3; GA.02 Revision 3; GA.03 Revision 2; GA.04 Revision 2; GA.05 Revision 4; GA.06 Revision 4; GS.00 Revision 4 and GS.01 Revision 4.
3. The development shall not commence until a scheme has been submitted to and approved in writing by the local planning authority to provide sound insulation to the residential units against external noise and vibration, to achieve levels not exceeding 30dB LAeq (night) and 45dB L_{Amax} (measured with F time weighting) for bedrooms, 35dB LAeq (day) for other habitable rooms, with windows shut and other means of ventilation provided. All works which form part of the scheme shall be completed before any part of the residential units are occupied and shall be retained thereafter.
4. The development shall not commence until a scheme has been submitted to and approved in writing by the local planning authority to provide appropriate sound insulation for the residential units against internally generated noise and vibration from the public house. The sound insulation works shall be completed before the use of the building begins and retained thereafter.
5. No external works shall commence until samples of all external materials and finishes to be used on the building have been submitted to and approved in writing by the local planning authority. The relevant works shall be carried out in accordance with the approved sample details.
6. The residential and commercial refuse storage facilities hereby approved shall be provided in full prior to occupation of the development and shall thereafter be retained and maintained.
7. Prior to occupation of the development a minimum of five secure and dry cycle parking spaces shall be provided and retained and maintained thereafter.

8. Occupation of the residential units shall not commence until detailed plans and a specification of the equipment comprising a ventilation system has been submitted to and approved in writing by the local planning authority. The ventilation system, which shall include measures to alleviate noise, vibration, fumes and odours (and incorporate active carbon filters, silencer(s) and anti-vibration mountings where necessary), shall be installed in accordance with the approved plans and specification, prior to occupation of the residential units and thereafter be permanently maintained in accordance with the approved specification.
9. Notwithstanding the Town and Country Planning (General Permitted Development) Order 2015 (or any Order revoking, re-enacting or modifying that Order), the areas of the building identified for Class A4 Drinking Establishment use at basement and ground floor level, shall be used only for this purpose and shall not be used for any other purpose (including any other purpose set out in the Schedule to the Town and Country Planning (Use Classes) Order 1987, or an any provision equivalent to that Class in any statutory instrument revoking and re-enacting that Order).