
Appeal Decision

Site visit made on 29 March 2017

by Elaine Gray MA(Hons) MSc IHBC

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

Decision date: 21 April 2017

Appeal Ref: APP/A5840/W/16/3165090
Block B, Holland Street SE1 9JF

- 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 GC Bankside LLP against the decision of the Council of the London Borough of Southwark.
 - The application Ref 16/AP/1891, dated 9 May 2016, was refused by notice dated 23 September 2016.
 - The development proposed is described as 'alterations to the existing extract ducting located at Neo Bankside'.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are the effect of the proposal on the character and appearance of the surrounding area, and whether the proposal would provide satisfactory environmental conditions for neighbouring occupants and the public, with particular reference to odours.

Reasons

3. The appeal site currently accommodates a pair of cylindrical ducts on land adjacent to Block B of the Neo Bankside development. The structures, one an intake duct and the other an extraction duct, serve the Albion restaurant, which is located on the ground and lower ground floors of Block B.
4. The replacement of the extraction duct has been proposed in response to complaints of problematic odours which have been experienced by residents on the floors above within Block B. A number of different options have been considered, and in an attempt to address the problem, planning permission¹ was previously sought and granted for a replacement extraction duct on the site. This scheme has not been implemented.

Character and appearance

5. On my site visit, I observed that the arrangement of paired ducts is repeated at several points, for example, next to Block A to the north-west, and on either side of Block C, to the south-east of the appeal site. The ducts are all of similar dimensions and comparable positions in relation to the buildings. They are thus a consistent design feature within the wider development. The existing

¹ 14/AP/3319

duct measures approximately 3.4m in height by 0.8m in width. The new duct would rise to a height of approximately 4.1m, and would be around 1.7m in width. It would thus be significantly larger than the remaining intake duct, and would sit in a more prominent position, closer to the edge of the footpath.

6. The appearance of the proposed new duct would also differ in that six nozzles would be set into the structure, in two rows of three. The large nozzles would be highly visually apparent, and would be a further departure from the appearance from the remaining ducts, adding to the visual imbalance in the street scene.
7. I accept that the Neo Bankside development is of a considerable overall scale. However, the ducts are experienced at a distance of typically only a few metres by those passing by. At these close quarters, the variation of the proposed duct from the appearance and design of the remaining ducts would be clearly evident. The success of the ducts as a visual feature lies in their strict uniformity. I accept that the development would be painted blue to match the others, and would also have perforated panels at the top. Nonetheless, by virtue of its size and design, the appearance of the proposed new duct would be harmfully at odds with that of the remaining ducts, whose uniformity is an integral architectural feature of the whole development.
8. The appellant states that the proposal would be screened away by landscaping. However, I am unconvinced that planting would effectively mitigate the appearance of a duct standing at around 4.1m in height. The area in front of the nozzles would need to remain clear, and in any case, the space between the new duct and the footpath would be of insufficient depth to allow any meaningful planting. I note that the height of the new duct would avoid obstructing the outlook from the accommodation above, but this would not outweigh the harm I have identified.
9. I therefore conclude that the development would unacceptably harm the character and appearance of the surrounding area. It would thus conflict with Strategic Policy 12 of the Southwark Council Core Strategy (CS, April 2011), which seeks to ensure development of the highest possible standards of design.

Environmental conditions

10. The existing extraction duct works by allowing odours to seep out and be dispersed by the prevailing wind. The new duct would incorporate jet diffusers which would throw the extracted air away from the face of the building. The appellant considers that this system would be sufficient to disperse odours away from the residential properties. Whilst this would be the initial effect of the propulsion, it is unclear whether the system would avoid the blowing back of fumes towards the building, depending on the direction of the wind. Although some general information from the manufacturer has been provided, the appellant has not offered any substantive technical evidence to demonstrate that this would not occur in this particular location. It has therefore not been shown that the proposal would provide satisfactory environmental conditions for the nearby occupants.
11. Conversely, in directing the extracted air towards the public realm, I am concerned about the effect of the proposal on the environment outside the building. I am mindful that the adjacent Tate Modern is a large draw for visitors to the area, and that a new entrance to the attraction lies close to

Holland Street. At the time of my site visit, in the early evening, I noted that the area was busy with a steady stream of pedestrians.

12. As noted above, the proposed duct would be located close to the pavement, and the nozzles would emit extracted air at a minimum height of around 2.39m above ground level. This would be a short distance above head height, and it is again unclear how the fumes would disperse into the environment once expelled. I therefore conclude that there is insufficient evidence to show that the public environment would not be harmfully affected by unpleasant fumes in this particular location.
13. I accept that the principle of the overall development in this location has been established as acceptable by the earlier decision permission². I accept also that the previous decision represents a fallback position. However, the appellant confirms that the number of nozzles was increased from four to six on advice that this number would be required to make the duct effective. This in turn suggests that the previous proposal would not have been effective in mitigating the harmful effect of the odours, which limits the weight that I can attach to the fallback position. Moreover, whilst I have had regard to the previous decision, I am bound to consider the appeal scheme on its own merits.
14. Drawing these factors together, I conclude that it has not been demonstrated that the proposal would provide satisfactory environmental conditions for neighbouring occupants or for the public. It would thus fail to comply with Policy 3.1 of The Southwark Plan (SP, 2007), insofar as it resists proposals that would have a material adverse impact on the environment and quality of life. It would also conflict with Strategic Policy 13 of the CS, insofar as it seeks to set high standards for reducing air pollution and avoiding amenity and environmental problems in the living and working environment.
15. I have had regard to the comments of the Council's Environmental Protection Team (EPT). The respondent requests full details of the odour management system in order to ascertain what level of odour control would be associated with the proposed new design. It thus appears from these comments that the EPT were not satisfied with the submitted information, but nonetheless recommended a condition in the event that permission was to be granted. Conditions may be applied in instances where developments are considered to be otherwise acceptable in principle. In view of the harm I have identified above, I do not consider that the imposition of a condition would be appropriate in this particular case.

Conclusion

16. For the reasons above, and taking all other matters into consideration, I conclude that the appeal should be dismissed.

Elaine Gray

INSPECTOR

² 14/AP/3319