
Appeal Decision

Site visit made on 22 May 2017

by Caroline Mulloy BSc (Hons) DipTP MRTPI

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

Decision date: 9 June 2017

Appeal Ref: APP/C5690/W/17/3170790

7 Kent House Road, Sydenham, London SE26 5LN

- 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 Mr Errol Lueshing against the decision of the Council of the London Borough of Lewisham.
 - The application Ref DC/16/098706, dated 12 October 2016, was refused by notice dated 16 January 2017.
 - The development proposed is basement extension to form additional space for proposed coffee shop.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues in this appeal are:
 - The effect of the proposal on the character and appearance of the host property and surrounding area; and
 - The effect of the proposal on the living conditions of existing occupiers with specific reference to noise, disturbance and odour.

Reasons

Character and appearance

3. The appeal site comprises of a 3 storey plus basement mid-terrace property situated on the east side of Kent House Road, close to the junction with Sydenham Road. The ground floor unit was formerly in use as a restaurant but has been vacant for some time. The upper floors are in residential use. The ground floor units of the adjoining properties were also previously in commercial use; however, one is now residential and the other two units are vacant.
 4. The appeal property forms part of a group of four terraced properties of a similar design. Although there have been some unsympathetic alterations to the ground floor shop units, the upper floors retain many of their traditional historic features. The small group of properties has hard standings to the frontage which are unenclosed adjacent to the pavement. The adjoining residential terrace to the south has front yards/gardens enclosed by low boundary walls. Steps lead to the main ground floor entrance and the basements are served by small light wells.
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5. It is proposed to excavate the existing hardstanding to the front of the property and create a single storey extension with roof terrace within the excavated area to enlarge the existing basement floor area to provide a coffee shop including the installation of steps to basement level, alterations to the existing ground floor shop unit, installation of railings and a bin store.
6. The proposal would create a basement level shop front with a front light well extending approximately 4.5m in front of the existing building line. The basement excavation, extension and light well would be unduly large and out of proportion with the host property. The basement shop front and light well would be in stark contrast with the hard standings of adjoining properties to the north. Furthermore, the light well would be significantly larger than the light wells serving the adjoining residential properties to the south. The proposed staircase would also introduce a further incongruous feature. The siting of any ventilation equipment or ducts could have an impact on the character and appearance of the area, although no details have been provided.
7. Taking these factors in combination, I consider that the proposal would be an incongruous addition to the host property which would be at odds with the prevailing character of the area.
8. Reference is made to a previous appeal decision¹ relating to the appeal property which was allowed for a coffee shop/café, however, this case is materially different to the current appeal proposal and does not, therefore, justify the harm which I have identified. Although the current appeal proposal may have some commercial/economic and community benefits, I consider that these benefits would be significantly outweighed by the harm which I have identified.
9. For the reasons stated, I conclude that the proposal would harm the character and appearance of the host property and the surrounding area. It would, therefore, be contrary to Policy 15 of the Core Strategy (CS) 2011 and Policies DM 30, 31 and 35 of the Development Management Local Plan (DMLP) (2014) which collectively seek to ensure that new developments and extensions or alterations to existing buildings are of a high quality design which contribute to the character of the area. The proposal is also contrary to criterion a of DM Policy 17 which seeks to ensure that the location and design of restaurants, cafes and drinking establishments are acceptable. Conflict also arises with DM Policy 19 which requires shop fronts to be designed to a high quality and reflect and improve the character and quality of their surroundings.

Living conditions

10. Cafes and restaurants have the potential to adversely affect the living conditions of nearby residents by virtue of noise and odour caused by cooking inside the premises and noise and general disturbance caused by customers and coming and going outside the premises. Such effects can be particularly intrusive when they take place late into the evening when other background noise levels generally diminish. Any noise generated in the property itself is likely to be experienced particularly by the residential units immediately above and also the adjacent properties. No details of any sound proofing have been provided.

¹ Appeal reference APP/C5690/W/15/3085774

11. The appellant considers that the proposal would only provide coffees and cakes and that there would not be any requirement for large ventilation and extract ducts as no cooking will be carried out on the premises. He states that the only extract fan would be to the downstairs toilet, however, no details of the fan have been provided. Furthermore, if planning permission was granted, the unit could change to a different A3 use under permitted development rights.
12. There is no evidence to suggest that any noise, odours or disturbance would be attenuated and given the close proximity of residential properties it would not be reasonable to leave the acceptability of any such measures to be approved by way of planning condition. The above mentioned previous appeal decision was a materially different proposal and does not, therefore, negate the need to demonstrate that the current appeal proposal would not harm the living conditions of existing occupiers.
13. For the reasons stated, I conclude that there is insufficient evidence before me to determine whether the proposal would harm the living conditions of existing occupiers in terms of noise, disturbance and odour. It would, therefore, be contrary to Policy DM 17 of the DMLP which seeks to ensure that there is no harm to the living conditions of nearby residents and expects applicants to provide acceptable arrangements for, amongst other things, the efficient and hygienic discharge of fumes and smells, sound proofing and opening hours.

Conclusion

14. Whilst the proposal may have some commercial/economic and community benefits, the totality of the harm which I have identified would significantly outweigh the benefits.
15. For the reasons stated and taking all other considerations into account, the appeal should be dismissed.

Caroline Mulloy

Inspector