



Appeal Decision

Site visit made on 8 August 2017

by A J Mageean BA (Hons) BPI PhD MRTPI

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

Decision date: 22nd August 2017

Appeal Ref: APP/E5900/W/17/3176299 536 Roman Road, London E3 5ES

- 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 Philippe Polleux against the decision of the Council of the London Borough of Tower Hamlets.
 - The application Ref PA/16/03522, dated 1 December 2016, was refused by notice dated 11 April 2017.
 - The development proposed is change of use from existing retail unit (Use Class A1) to part retail/part restaurant use (Use Class A1/A3). Installation of an extraction system (cooker hood) and flue at the rear (external duct and outlet).
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Decision

1. The appeal is allowed and planning permission is granted for change of use from existing retail unit (Use Class A1) to part retail/part restaurant use (Use Class A1/A3). Installation of an extraction system (cooker hood) and flue at the rear (external duct and outlet) at 536 Roman Road, London E3 5ES in accordance with the terms of the application, Ref PA/16/03522, dated 1 December 2016, subject to the conditions set out in the attached schedule.

Main Issue

2. The main issue is whether the proposal would preserve or enhance the character or appearance of the Roman Road Market Conservation Area.

Reasons

3. The appeal site is located in the southern frontage of Roman Road, within the Roman Road Market Conservation Area (CA). This part of the District Centre is a busy commercial area, which at the time of my site visit included the street market. More generally this area contains a range of retail, restaurant/café and takeaway food activities, with residential use on upper floors.
4. The appeal site is a three storey mid-terrace brick built property of traditional appearance with a commercial unit, occupied by the existing wine shop, at ground floor level. This part of the Roman Road frontage is characterised by a range of modern and traditional buildings, though most are similarly brick built and 3 to 4 stories in height, creating a strong and consistent building line to this frontage which frames this part of the CA.
5. To the rear the appeal property displays the traditional butterfly roof form, though there is little or no visibility of this from the private alley which runs to the rear of these properties due to the existing two storey rear extension to

this property. This narrow rear servicing alley, which marks the boundary of the CA, is of more varied and altered appearance, dominated by the large brick buildings to the south. The views into this gated alley from William Place will be reduced by the redevelopment of No's 530-532 Roman Road which, when complete, will increase the height and rear extent of these plots.

6. Whilst the Council is satisfied that the proposed combined use of the premises as wine shop and restaurant would not in principle be unacceptable, concern remains about the proposed introduction of a new ventilation flue on the rear elevation of the building. This addition would travel vertically from the ground floor flat roofed extension, then follow the profile of the rear addition to this property, terminating where the rear addition adjoins the butterfly roof, with a final vertical element rising above this point by around 1m.
7. The parapet along the front of the appeal building means that it is unlikely that the flue would be visible from Roman Road. It is possible that glimpsed views of the proposed addition may be possible from William Place, however, the nature of the 530-532 Roman Road redevelopment and the position of the flue for the most part following the building profile, would mean that this would not be a noticeable or obtrusive addition to public views from this part of the CA.
8. The Council also refers to concern about the appearance of the flue in private views from the residential properties on either side of the appeal site. However, I have noted that the area around the rear private servicing alley has a more varied appearance. In this case the appellant has made efforts to secure a discrete location for this addition, such that whilst I accept that it may be partially visible, it would not intrude significantly or obtrusively into views from neighbouring properties. I also note that it would extend to a height which is intended to ensure that cooking odours would be dispersed above the level of windows to habitable rooms, thereby reducing the potential for other adverse impacts.
9. In accordance with the statutory duty in relation to conservation areas set out in Section 72 (1) of the Act¹, I am required to pay special attention to the desirability of preserving or enhancing the character or appearance of that area. Additionally the National Planning Policy Framework (the Framework) requires that when assessing development proposals consideration be given to the impact on the significance of heritage assets.
10. In this case, due to the location of the proposed flue away from the Roman Road frontage, largely following the rear profile of the host building, this development would not harm the character or appearance of the host building or the wider Roman Road Market Conservation Area. That is to say the character and appearance of this heritage asset would be preserved, and its significance would not be harmed. The proposal would also comply with the London Plan Policies 7.4 and 7.8, the Tower Hamlets Core Strategy Development Plan Document 2010 Policy SP10 and the Tower Hamlets Managing Development Document 2013, Policy DM27 which, taken together, require development to be of high quality design which protects and enhances heritage assets and their settings.

¹ Planning (Listed Buildings and Conservation Areas) Act 1990

Conditions

11. I have had regard to the conditions suggested by the Council in the event of a successful appeal, and the comments made by the appellant. A condition requiring that development be carried out in accordance with approved plans (2) is required as this provides certainty. A condition specifying opening hours (3) is required to protect the living conditions of the occupiers of nearby properties. The appellant has requested earlier opening times than those suggested by the Council to reflect those associated with the existing A1 retail business. As this is a busy commercial area, earlier opening times for the combined A1/A3 uses would not lead to additional noise or disturbance for local residents and are therefore reflected in the condition below. Finally, conditions relating to music (4) and noise from the ventilation flue (5) are also required to protect the living conditions of the occupiers of nearby properties.

Conclusion

12. For the reasons set out above, as the proposal would comply with the development plan and Framework taken as a whole, the appeal is allowed.

AJ Mageean

INSPECTOR

Schedule of conditions

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: 100 Rev rB – Site Plan; 001 Rev rB – Location Plan; 101 Rev rB – Existing Ground Floor Plan; 102 Rev rB – Existing Rear Elevation; 103 Rev rB – Existing Section AA; 111 Rev rB – Proposed Ground Floor Plan; 112 Rev rB – Proposed Rear Elevation; 113 Rev rB – Proposed Section AA.
- 3) The premises shall only be open for customers of the use hereby permitted between the following hours:
Monday-Saturday 09.00 – 23.00
Sundays (including bank holidays) 09.00 – 22.00
- 4) No music shall be played within the premises so as to be audible outside the premises.
- 5) The ventilation flue hereby approved shall operate at all times to a level of 10db below the lowest measured background noise (LA90), 15mins as measured one metre from the nearest affected window of the nearest affected residential property. The assessment of background noise shall be made in the absence of all operating plant that services the premises that is the subject of this planning application.

The ventilation flue hereby approved shall not create an audible tonal noise nor cause perceptible vibration to be transmitted through the structure of the building.