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## Appeal Decision

Site visit made on 23 August 2017

**by C Cresswell BSc (Hons) MA MBA MRTPI**

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

**Decision date: 10 October 2017**

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**Appeal Ref: APP/N5660/W/17/3168247**

**The Grosvenor Arms, 17 Sidney Road, Lambeth, London SW9 0TP**

- 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 Hamma Wakaf Limited against the decision of the Council of the London Borough of Lambeth.
  - The application Ref 15/00481/FUL, dated 15 January 2015, was refused by notice dated 8 December 2016.
  - The development proposed is change of use of the first and second floors of the public house to create 4 residential units (Class A3 to Class C3) retaining public house at basement and ground floor.
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**This decision is issued in accordance with section 56 (2) of the Planning and Compulsory Purchase Act 2004 as amended and supersedes that issued on 11 September 2017.**

### Decision

1. The appeal is allowed and planning permission is granted for change of use of the first and second floors of the public house to create 4 residential units (Class A3 to Class C3) retaining public house at basement and ground floor at The Grosvenor Arms, 17 Sidney Road, Lambeth, London SW9 0TP in accordance with the terms of the application, Ref 15/00481/FUL, dated 15 January 2015, subject to the conditions set out in the Schedule at the end of this Decision.

### Main Issues

2. The main issues in this case are:
  - the effect of the proposal on the character and appearance of the area.
  - the effect of the proposal on the living conditions of future occupiers having particular regard to noise.
  - the effect of the proposal on the viability of the public house.

### Reasons

#### *Character and appearance*

3. The appeal relates to a public house (the Grosvenor Arms) which was vacant at the time of my visit and undergoing building works. It is situated in a relatively prominent position on the corner of Sidney Road and Aytoun Road and I am informed that the property dates from the 19<sup>th</sup> Century. The street scene in

this area is relatively diverse, with a mixture of older style properties and large, contemporary apartment buildings visible in the immediate surroundings. The public house is a particularly distinctive element of the street scene due to its traditional proportions and relatively ornate frontage.

4. It is proposed to convert the upper floor of the public house into self-contained flats which would involve extending the property to the rear. The proposed extension would have a contemporary design in contrast to the traditional appearance of the public house. However, the extension would not interfere with the main frontage of the public house which wraps around the corner of Sidney Road and Aytoun Road. As such, the most distinctive elements of the building would be maintained. Furthermore, the rear parts of the public house facing Aytoun Street are of less architectural merit than the main three storey elements of the building. While the Council raise concerns at the use of exterior cladding, this would be generally compatible within the street scene given the somewhat mixed appearance of the area.
5. I therefore conclude on this issue that the proposal would have an acceptable effect on the character and appearance of the area. There would be no conflict with Policies Q8 and Q11 of the Lambeth Local Plan 2015 (the Local Plan) which promote local distinctiveness and appropriate standards of design.

#### *Living conditions*

6. The appellant's noise assessment prepared by Peninsular Acoustics indicates that noise levels within the proposed flats would be acceptable if certain mitigation measures were implemented. This is on the basis that no live music is played in the public house. Although the Council argue that it would be difficult to mitigate background noise in a building of this age, I have been provided with little evidence to substantiate this. Furthermore, I note that the Council's Regulatory Services Noise Officer has reviewed the recommendations within the noise assessment and raises no objections.
7. Therefore, provided that conditions are imposed to ensure that no live music is played and the recommended mitigation measures are implemented, the evidence indicates that noise levels within the proposed flats are unlikely to reach a level where they would cause disturbance. As such, I conclude on this issue that the proposal would have an acceptable effect on the living conditions of future occupiers. There would be no conflict with Policy Q2 of the Local Plan which aims to protect residential amenity.

#### *Viability of public house*

8. Policy ED8 of the Local Plan sets out criteria which apply to proposals for the change of use, demolition or redevelopment of public houses. Although the building would continue to be used as a public house, the policy is nonetheless triggered due to the loss of the upper floors to the business.
9. Paragraph (a)(i) of Policy ED8 indicates that if the public house use is no longer economically viable there must be evidence of active and appropriate marketing over a continuous period of at least 12 months. Furthermore, all reasonable efforts should have been made to preserve the facility.
10. With this in mind, the appellant has submitted marketing reports showing that the building has been advertised for rental since 2014, including exposure in a property magazine and website. The reports indicate that attempts to find an

appropriate occupier have been unsuccessful, with limited interest shown in utilising the ancillary accommodation. There is little before me to suggest that the asking price was unreasonable and I have been given few reasons to doubt the authenticity of the marketing information presented. I therefore consider that reasonable efforts have been made to market the public house.

11. I note that paragraph 6.40 of the Local Plan supporting text indicates that trading accounts for the last three years should be provided and reference is also made to the CAMRA Public House Viability Test. However, it seems to me that these tests are of more relevance to situations where a public house would be demolished or lost to redevelopment. In the current case, the key question is whether the economic viability of the public house would be undermined if the ancillary accommodation were to be converted as proposed.
12. In my view, the evidence put forward indicates that there is limited market demand for the property in its existing form. I accept the appellant's argument that longer term changes in the industry have reduced profit margins and that ancillary accommodation can lead to unnecessary overheads. Given that the operational floor area of the public house would remain unaffected, I consider that the loss of the ancillary accommodation would not undermine the potential for the property to be used as a public house in the future.
13. Paragraph (a)(ii) of Policy ED8 advises that proposals should not result in the loss of a facility of particular value to the local community. I am aware that the public house is an Asset of Community Value and that it has served as a popular live music venue in the past. In order to maintain acceptable living conditions for future occupiers of the proposed flats, a condition would need to be imposed to prevent live music being played at the venue. Hence, the proposal would somewhat change the nature of the public house.
14. Nonetheless, the property has been marketed in its current form for some time without success. This suggests that the previous business model is not an attractive proposition to future landlords. It would therefore be unreasonable to withhold planning permission on the basis that the building should be capable of serving as a live music venue. I have found that the proposal would not undermine the potential for the property to be used as a public house in the future and, although its characterises may change as a consequence of the proposed development, there is little before to suggest that it could not continue to serve a valued role within the local community.
15. Paragraph (a)(iii) of Policy ED8 states that proposals should not detrimentally affect the vitality of the area or the character of the street scene. For reasons given above, I consider that there would be no conflict with this aspect of the policy. Similarly, there would be no conflict with paragraph (b) of the policy which advises that there should be no reasonable prospect in the medium term of reuse for an alternative A or D use class. The marketing information indicates that this is unlikely to be the case. As the proposal would not interfere with a heritage asset or result in the loss of cellarage, it would also accord with paragraphs (c) and (d) of the policy.
16. I therefore conclude on this issue that the proposal would not harm the viability of the public house. There would no conflict with Policy ED8 of the Local Plan.

#### *Other matters*

17. The appellant has provided a planning obligation to in order to enable the development to be car free. During my site visit I saw that parking spaces were limited in this area and further residential development would have clear potential to add to these pressures to the detriment of residential amenity. Consequently, I consider the planning obligation to be necessary, directly related to the development and fairly related in scale and kind.

### **Conclusion and Conditions**

18. For the above reasons, and having regard to all other matters raised, I therefore conclude that the appeal should be allowed.
19. In the interests of clarity, standard conditions requiring the development to be carried out in accordance with the plans and within a time limit have been imposed. To protect the character and appearance of the area there are conditions requiring further details of materials and other elements of the development. In order to protect the use of the building as a public house there is also a condition which requires that the ground floor and basement are not used for any other purpose. To protect the living conditions of future occupiers there is a condition prohibiting live music and a condition controlling noise from mechanical equipment. There is also a condition which requires mitigation measures to be implemented in accordance with the appellant's noise assessment. In the interests of energy efficiency there are conditions requiring an energy strategy and a condition which limits water consumption. In the interests of amenity, there are also conditions requiring adaptable accommodation, security measures and refuse arrangements.

*C Cresswell*

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: Location Plan, 445(0)101, 445(0), 103 Rev C, 445(0)104 Rev B, 445(0)105 Rev B, 445(0)106 Rev B, 445(0)110, 445(0)111 (Proposed Sidney Road Elevation), 445(0)111 Rev A (Proposed Sections), JDD/SR-E6, JDD/SR-E7, JDD/SR-E4, JDD/SR-E5, JDD/SR-E2, JDD/SR-E3, JDD/SR-E8, JDD/SR-E1.
3. Notwithstanding the provisions of the Town and Country Planning (Use Classes) Order 1987 or the Town and Country Planning (General Permitted Development) Order 2015 (or any orders revoking and re-enacting those orders with or without modification) the ground floor and ancillary basement level of the premises shall be used as a public house and for no other use.
4. Notwithstanding details shown on the drawings hereby approved, no development shall commence until a schedule and samples of materials of new works have been agreed in writing by the Local Planning Authority.
5. Notwithstanding the details on the drawings hereby approved, no development shall commence until drawings (scale of 1:20, 1:10, 1:5 and 1:100 where applicable) and/or manufacturer's specifications of the details below (where relevant) have been submitted to and approved in writing by the Local Planning Authority. The development shall thereafter be carried out solely in accordance with the details thus approved.
  - a. Balconies, balustrades and privacy screens;
  - b. Details of the doors, gates and windows
  - c. Details of rooflights and parapets;
  - d. Rainwater pipes (location, profile and RAL);
  - e. Copings, cills, drip-moulds, fixings;
  - f. Solar panels(location, size and incline);
  - g. Any external plant equipment, including building services plant, ventilation and filtration equipment;
  - h. Lighting, letter box and Security features;
  - i. Details of signage (building identification)
6. Notwithstanding the approved drawings, prior to the first use or occupation of any part of the development hereby permitted detailed drawings of the refuse and recycling storage provision for each residential unit and the pub including a Waste Management and Servicing Strategy outlining the operation and management of waste storage and collection (including details of who would be taking the bins in and out on collection and day and confirm that all bins will be returned inside after collection) and the delivery and servicing arrangements to the building, shall be submitted to and approved in writing by the Local Planning Authority. The development shall thereafter be carried out in accordance with the approved details.

7. The development hereby permitted shall be constructed to include the design principles and provision of physical protection measures to meet Secured By Design / New Homes 2014. Prior to the first use or occupation of the development hereby permitted details of secured by design certification shall be submitted to and approved in writing by the Local Planning Authority.
8. The development hereby permitted shall not commence until a finalised Energy Strategy demonstrating how the targets for carbon dioxide emissions reduction across the site are to be met in line with the Mayors Energy Hierarchy has been submitted to and approved in writing by the Local Planning Authority.
9. Noise from any mechanical equipment or building services plant shall not exceed the background noise level when measured outside the window of the nearest noise sensitive or residential premises, when measured as a L90 dB (A) 1 hour.
10. The recommended noise mitigation measures outlined in the Noise Assessment prepared by Peninsular Acoustics Ltd, updated 29 May, shall be incorporated into the development and implemented prior to the first occupation of the development hereby permitted and must be complied with and maintained thereafter unless otherwise approved in writing by the Local Planning Authority.
11. No live music is to be played from the Public House.
12. As far as practical at least 3 of the residential flats hereby permitted shall be designed so that they meet Building Regulation M4 (2) – ‘accessible and adaptable dwellings’.
13. As far as practical at least 1 of the residential flats hereby permitted shall be designed so that it meets Building Regulation M4 (3) ‘Wheelchair user dwellings’.
14. The residential dwellings hereby approved shall be designed to ensure that the internal water consumption does not exceed a maximum of 105 litres per person per day.