
Appeal Decision

Site visit made on 20 February 2018

by Jonathan Price BA(Hons) DMS DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 22nd March 2018

Appeal Ref: APP/X5210/W/17/3180926

1 Greville Street, London EC1N 8PQ

- 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 Simon Clayton (Stonegate Pub Company) against the decision of the Council of the London Borough of Camden.
 - The application Ref 2017/1336/P, dated 3 March 2017, was refused by notice dated 19 June 2017.
 - The development proposed is to remove 3no. existing awnings above the terrace at first floor level and replace the ones that face Leather Lane with a new larger awning that has one retractable side.
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Decision

1. The appeal is dismissed.

Procedural Matter

2. My decision is based on the policies of the Camden Local Plan 2017 (LP) which the Council adopted on 3 July 2017 and which replace those of the now superseded Core Strategy and Development Policies referred to in the refusal notice.

Main Issues

3. The main issues are:
 - Whether the proposal would preserve or enhance the character or appearance of the Hatton Gardens Conservation Area.
 - The effect on the living conditions of nearby residential occupiers, with particular regard to noise and disturbance.

Reasons

Character or appearance of the Hatton Gardens Conservation Area

4. The proposal relates to The Argyle, a public house at 1 Greville Street. The premises comprise a basement, ground and first floor within a corner plot which forms part of a larger mixed use building, with five residential floors above. This building is of a quite contemporary design and is un-listed but located in the Hatton Gardens Conservation Area.
5. The ground floor element to the building extends further out towards the footway along Greville Street and the pedestrianized Leather Lane than the

floors above. This provides The Argyle with a first-floor outdoor terrace facing these streets. The terrace is licensed and contains tables, chairs and outside heaters and is open apart from retractable awnings above the three openings into the first floor indoor part of the public house.

6. The proposal is to remove the existing awnings and replace these with a permanent aluminium framed weather protection area which would run along the majority of the first floor elevation facing Leather Lane. This would support a retractable canvas which could provide a cover over the terrace or extend further to the floor creating an enclosed, weather protected area with open ends.
7. I have a statutory duty under the Planning (Listed Buildings and Conservation Areas) Act 1990 to have special regard to the desirability of preserving or enhancing the character or appearance of the Hatton Gardens Conservation Area. The National Planning Policy Framework (the Framework) states in paragraph 132 that when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation.
8. The appellant refers to paragraph 135 of the Framework and to the Court of Appeal case between Suffolk Coastal District Council and Hopkins Homes Limited. I am aware this judgment¹ did not alter the advice in paragraph 135 over the need to consider the effect of a development on the significance of a non-designated heritage asset. However, the Council's case is over the effect of the larger awning on a designated heritage asset, the Hatton Gardens Conservation Area, where the effect on significance should also be determined. However, I would dispute the appellant's inference that paragraph 133 of the Framework confers a presumption in favour of development where there is no substantial harm caused to the significance of the heritage asset.
9. The significance of Hatton Gardens Conservation Area derives from its many robustly detailed industrial, commercial and residential buildings mainly built during the last two centuries which reflect an earlier pattern of development and intersecting streets. The development was based on metal working and has since evolved to be the focus of London's jewellery trade. Although the appeal property is part of a block of more recent, post-war buildings it reflects the historic pattern of streets with closely-facing tall facades of high density development.
10. The large and visually prominent awning proposed, with the permanent aluminium frame, would be more intrusive than the existing retractable ones. The scale of the awning would be harmfully out-of-keeping with the built character of the surrounding area and appear as an insubstantial and incongruous feature detracting from the robust quality of the host building. Although the harm caused to the significance of the Conservation Area would be less than substantial, it is necessary that I still give considerable importance and weight to that found, with the presumption that preservation is desirable.
11. Where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, paragraph 134 of the Framework

¹ Secretary of State for Communities and Local Government v Hopkins Homes Ltd; Richborough Estates Partnership LLP v Cheshire East Borough Council, also known as Suffolk Coastal DC v Hopkins Homes Ltd [2017] UKSC 37; Court of Appeal [2016] EWCA Civ 168; High Court [2015] EWHC 132 (Admin); UK Supreme Court 10 May 2017

requires that this harm should be weighed against the public benefits of the proposal, including securing its optimum viable use. There would be economic benefits to the business, and some social benefit to the community, in the larger awning providing protection and thus extending the use of a larger part of the terrace to periods of inclement weather. There is no acoustic evidence, however, that the awning would reduce the noise emanating from current use of the terrace by patrons.

12. However, these benefits would be relatively small and insufficient to outweigh the harm caused to the host building and to the wider significance of the heritage asset. The proposal would fail to preserve or enhance the character or appearance of the Hatton Gardens Conservation Area and thereby conflicts with the aims of LP policies D1 and D2.

Living conditions of nearby residential occupiers

13. The evidence suggests that the use of the first-floor terrace by patrons of the public house is authorised and that legislation separate to planning exists to safeguard adjoining occupiers from noise and disturbance. The proposal would not alter this. However, the use of the terrace is currently limited to warmer months and when the weather is fine. I share the Council's concerns that the more extensive and semi-permanent awning would alter the outdoor nature of this part of the premises and effectively serve to extend the internal floorspace at this level without the same sound insulation qualities of a more solid structure.
14. Given the proximity to the residential accommodation in the floor above the noise generated by the extended use of this part of the licensed premises would be un-neighbourly and materially harm the living conditions of the adjacent occupiers. There is no evidence the awning would provide sufficient noise insulation to compensate for this extended use of the terrace. The voluntary management plan that has sought to address noise complaints resulting from the previous use of the terrace would not alter my concerns over this proposal which, due to the noise and disturbance likely to be generated by an extended period of terrace use, would conflict with the aims of LP policies A1 and A4.

Conclusion

15. The proposal would result in material harm to the character and appearance of the building and the surrounding part of the Hatton Gardens Conservation Area and to the living conditions of nearby residential occupiers, due to the potential for extended periods of use causing further noise and disturbance. For these reasons, and having taken into consideration all other matters raised, I conclude that the appeal should be dismissed.

Jonathan Price

INSPECTOR