



Appeal Decision

Site visit made on 15 July 2019

by J D Westbrook BSc(Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 22 July 2019

Appeal Ref: APP/H5390/W/19/3227884

The Clarence, 148 North End Road, London, W14 9PP

- 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 Bestplace Ltd against the decision of the Council of the London Borough of Hammersmith and Fulham.
 - The application Ref 2018/03909/FUL, dated 15 November 2018, was refused by notice dated 11 April 2019.
 - The development proposed is a change of use of the upper floors from public house (Use Class A4) into tourist hostel accommodation (sui generis); installation of a kitchen extract duct and erection of an external fire staircase with a door opening onto the rear elevation; infilling of 1 door; installation of timber access gates and installation of 1 new window to replace an existing window.
-

Decision

1. The appeal is dismissed.

Procedural Matters

2. There are certain items of information contained within the application form that give rise to some confusion. In particular, the alterations to the public house would appear to involve the employment of around a dozen bar and kitchen staff etc, while the proposed hostel would necessitate the employment of additional night porters, but there is no indication in the answer to question 18, relating to employment, that this would be the case. In addition, it is stated in the answer to question 19 that hours of opening is not relevant to the proposal, although it would appear that access to the hostel would be available on a 24 hour basis, and that it would effectively be open at all times. These matters will be discussed in the body of this decision letter as appropriate.

Main Issues

3. The main issues in this case are the effects of the proposed change of use on:
 - The character and appearance of the Baron's Court Conservation Area,
 - The living conditions of the occupiers of nearby residential properties by way of noise and disturbance, and
 - The provision of wheelchair accessible accommodation.

Reasons

4. The Clarence is a three-storey building plus basement situated on the western side of North End Road, at its junction with May Street. The ground floor comprises a public house and the upper two floors contain residential accommodation, apparently occupied by the publican, his wife and the bar manager, with a further 7 bedrooms vacant. There is a triangular-shaped beer garden to the rear/side with access from the bar area. The building is located in the south-eastern corner of the Baron's Court Conservation Area (CA).
5. The proposed development would involve the refurbishment of the ground floor to create a more-integrated bar area with a kitchen and new toilet provision. The beer garden would be reconfigured, and the total seated covers available at the public house would be between 70 and 80 inside, with a further 78 in the beer garden. The upper two floors would be converted to hostel accommodation for tourists with 9 bunk-rooms and 3 super-king double bedrooms. The 3 double rooms and 4 of the bunk-rooms would have en-suite provision, and the other bunk-rooms would share bathroom facilities. There would be 87 bedspaces provided in total.
6. External alterations proposed would include the construction of a rear external fire escape staircase from first-floor level; the erection of a kitchen extraction duct at the rear of the building; and certain alterations to windows and doors.

Character and appearance

7. The Council contends that the proposed ducting is unacceptable in terms of visual amenity on the grounds of its reflective appearance and visibility from May Street. The Council considers that it would form a visually incongruous feature, out of keeping with the character and appearance of the existing building and harmful to the character of the CA.
8. The Clarence is surrounded by large, relatively modern blocks of flats to the west and south, off May Street. I concur that the proposed duct, using the materials as proposed, would not appear in keeping with the design and materials of the host property. However, it would appear that the appellants would be prepared to use more appropriate materials for the construction of the duct, and that the Council may find this acceptable. I consider that such a course of action could be covered by a suitably worded condition.
9. Given that the duct would only be readily visible from the flats on May Street, I consider that the use of more appropriate materials, as could be covered by condition, would ensure that the proposal would preserve the character and appearance of the CA. On that basis, it would not be harmful to the character or appearance of the CA and would also not conflict with Policy DC8 of the Council's Local Plan (LP), which relates to the conservation of heritage assets.

Living conditions

10. The Council contends that the proposed change of use of the upper floors of the property from an ancillary flat to an 87 bedspace tourist hostel would result in over-intensification of the use of the property. On this basis, the Council considers that it would represent a significant material change to the existing ancillary use of the upper floors of the building, resulting in undue noise and disturbance associated with increased comings and goings from the site, which would be detrimental to neighbouring residential occupiers.

11. In this case, I note from the evidence before me that trade at The Clarence has declined in recent years and that the configuration and condition of the existing public house are such that significant alterations and refurbishment are required. Alterations at ground floor level would include internal reconfiguration to provide between 70 and 80 covers and redesign of the beer garden to provide some 78 covers. The kitchen for the public house would be moved downstairs from its current location on the first floor, and the operation of the kitchen would include facilities for collection of take-out food, with a "hatch" window facing May Street. There would also be a food and drink truck stand within the beer garden area. This indicates a potential for a significant increase in activity over the current situation.
12. The appellants' statement indicates that the existing premises licence requires the beer garden to be cleared of patrons by 23.00, and that sale of alcohol is restricted to 10.00-23.30 (Monday to Thursday), 10.00-midnight (Friday/Saturday) and 12.00 – 22.30 (Sunday). It is contended that the appellants' proposed operation is consistent with the existing licence. However, the management plan submitted with the appeal statement indicates that bar operation hours would be 10.00 to 00.30 every night. It also indicates that the hostel would, in addition, remain open between 00.30 and 10.00 under the supervision of a night porter. Furthermore, from the appeal statement, it would appear that hostel guests would be offered discounts for breakfast, which indicates that the kitchen and at least some of the ground floor would be open and active from early morning.
13. In the light of the above, it would appear that the hostel activities would be of a 24 hour nature, with the potential for guests entering, leaving and socialising at all hours. Given that there would be up to 87 guests, this would represent significant activity, which would be over and above the activities of customers of the public house and the take out collections, during bar opening hours. There are a large number of residential properties facing the appeal property on May Street opposite, and further properties in close proximity to the rear and immediately to the north. I consider that the intensity of use of the combined public house/hostel and consequent potential for noise and disturbance for much of the day, including night-time hours, would be harmful to the living conditions of the occupiers of the neighbouring blocks of flats and other residential units in the immediate vicinity.
14. I note the contention of the appellants that most customers and guests would travel to the premises by taxi or public transport. However, it is likely that some would drive and, in any case, there would likely be significant numbers of customers waiting for and using taxis or private vehicles at a concentrated period around bar closing time, and this would add to the disturbance to local residents. I accept that the appellants would train their staff to try to minimise such disturbance, and this is to be commended, but given the potential large numbers of customers and guests involved, along with staff of the public house and hostel, this would be difficult to achieve.
15. The appellants indicate that existing servicing arrangements would continue, though I note that the small servicing/parking area currently at the rear of the public house would be subsumed into the beer garden and used for bin storage and access/fire escape. There would, therefore, be no effective space for servicing off street and this would be likely to add to noise emanating from the activities of the property.

16. Policy E3 of the LP indicates that permission will be granted for new visitor accommodation and facilities or the extension of existing facilities subject to, amongst other things, the development being well located in relation to public transport; the development and any associated uses not having a detrimental impact on the local area; and provision of adequate off street servicing and pick up points for the type of facility proposed. I accept that the appeal property is well located in relation to public transport. However, for my reasons given above, I consider that the proposal would have a significantly detrimental impact on the residential amenities of the local area, and that there could be issues relating to an apparent lack of off-street servicing arrangements.
17. On the basis of the above, I find that the proposal would be harmful to the living conditions of the occupiers of nearby residential properties on and around May Street, and that it would conflict with Policy E3 of the LP, and with Policy DC3 of the LP which requires good neighbourliness, with reference in particular to the amenities of neighbouring properties and other properties most directly affected by the proposal.

Provision of wheelchair accessible accommodation

18. Policy E3 of the LP indicates that permission will be granted for new visitor accommodation and facilities or the extension of existing facilities subject to at least 10% of bedrooms being designed as wheelchair accessible. In this case, the hostel bedrooms would be on the first and second floors and there would be no provision for any bedrooms to be wheelchair accessible.
19. The appellants contend, in the appeal statement, that the design of the property would preclude such provision. However, in the Design and Access Statement, it is contended that, given the restrictions on the available floor area, and the costs of implementing lift access, it is not currently economically viable to achieve full access to the upper floors of the building. In either case, whether by virtue of physical design or economic viability, I have no evidence before me to support the contentions of the appellants. In the absence of any such evidence, I find that the proposal as submitted would fail to provide for wheelchair accessibility and that it would, therefore, conflict with Policy E3 of the LP.

Other Matters

20. With regard to the issue of noise, the appellants note, in the accompanying planning statement, that they have a wealth of experience in running similar public houses and hostels across London, including those with a much larger bed provision than is envisaged at the Property. I have no reason to doubt the considerable experience of the appellants. However, the example used is The White Ferry, which apparently has provision for 76 beds and this, therefore, does not have larger bed provision than that proposed at The Clarence. In any case, I have no details of the surrounding area or other circumstances involved with this example.
21. There has apparently been considerable email exchange between the appellants and the Council relating to the possible use of a condition restricting the use of the hostel to 87 bedspaces. The appellants note the existence of a similar condition on a planning permission granted at another property (the Queen Elizabeth) that involved restriction on use to 51 bedspaces. The use of

- a similar such condition may well be potentially possible in this case also. However, there appears to be some confusion as to whether variations on this condition involving temporary time limits and monitoring of noise would also be possible. I consider that such conditions might well be unenforceable and, in any case, for my reasons given above, I find that the level of activity associated with the numbers of guests proposed at The Clarence likely to be harmful to local residential amenities.
22. The appellant also notes that the space per guest at The Clarence, based on the proposed scheme, would be slightly more favourable than that existing at the Queen Elizabeth, and that the space available at the Clarence could, in fact, accommodate more than 87 guests. This may well be the case, but the main relevant issue here is not the space per guest, or the potential physical capacity of The Clarence, but is the effect of the proposal in its entirety on the surrounding area.
23. The existing publican has submitted a declaration relating to the declining viability of existing pub. I have sympathy with the situation that he finds himself in, but that is not a reason to allow a scheme that would be harmful to the residential amenities of nearby occupiers, or that would fail to meet standards for wheelchair accessibility.
24. Finally, the appellants note the employment that would result from the proposed scheme. I accept that this is a positive consideration. However, it does not compensate for the harm that would result from the scheme as submitted and as outlined above. Moreover, there is no reason to suppose that an alternative scheme that conformed to planning policy and did not result in significant harm to the local area would not also generate some additional employment.

Conclusion

25. Having taken into account all relevant considerations in this case, and balanced them out in the light of adopted planning policy, I find that the proposal would not be harmful to the character or appearance of the CA, but that it would be harmful to the living conditions of the occupiers of nearby dwellings by way of noise and disturbance, and that it would fail to provide wheelchair access for potential guests of the proposed hostel. Accordingly, I dismiss the appeal.

J D Westbrook

INSPECTOR