
Appeal Decisions

Site visit made on 11 June 2019

by A Napier BA(Hons) MRTPI MIEMA CEnv

an Inspector appointed by the Secretary of State

Decision date: 20 August 2019

Appeal A Ref: APP/N5660/W/18/3213185

The Old Red Lion, 42 Kennington Park Road, London SE11 4RS

- 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 ORL Pub Ltd against the decision of the Council of the London Borough of Lambeth.
 - The application Ref 18/00612/FUL, dated 7 February 2018, was refused by notice dated 3 July 2018.
 - The development proposed is described as 'rear extension of the previously approved application with three-storey, in order to provide 3 x 1 bed self-contained flats on the upper floors'.
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Appeal B Ref: APP/N5660/Y/18/3213180

The Old Red Lion, 42 Kennington Park Road, London SE11 4RS

- The appeal is made under section 20 of the Planning (Listed Buildings and Conservation Areas) Act 1990 against a refusal to grant listed building consent.
 - The appeal is made by ORL Pub Ltd against the decision of the Council of the London Borough of Lambeth.
 - The application Ref 18/00613/LB, dated 7 February 2018, was refused by notice dated 3 July 2018.
 - The works proposed are 'rear extension of the previously approved application with three-storey, in order to provide 3 x 1 bed self-contained flats on the upper floors'.
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Decisions

1. Appeal A and Appeal B are dismissed.

Preliminary Matters

2. The description in the headings above is that given on the joint application form. The Council's decision notice for the planning application describes the proposed development as: 'Three storey side extension above existing single storey building providing 3 x 1-bed self-contained flats on the upper floors and change of use of existing ground floor building to ancillary pub use (Class A4).' The Council's decision notice for the listed building consent application describes the proposed works as: 'Three storey side extension above existing single storey building providing 3 x 1-bed self-contained flats on the upper floors.'
3. Whilst both appeal forms indicate that the description of the proposal has not altered, the description given in both forms is that used in the planning application decision notice by the Council. There is nothing substantive before me to indicate that the description of the proposal has been altered by

agreement with the appellant. However, from the details available to me, including the plans, drawings and documents submitted in support of the scheme, the revised descriptions more accurately reflect the extent and type of work proposed.

4. The appellant's appeal submissions indicate that the decision notice for the refusal of listed building consent was not received by the appellant, nor available on line. A copy of the notice has been provided with the appeal submissions and, from the evidence before me, I am satisfied that the Council determined the application and I intend to consider the appeal on this basis.

Background and Main Issues

5. My attention has been drawn to previous appeal decisions on the site.¹ These decisions granted planning permission and listed building consent for the erection of a three-storey side extension over the existing single-storey annex to provide, in part, two one-bedroom flats on the upper floors. The approved scheme is materially different to the proposal before me, in its design and the number of flats proposed.
6. It is stated that this previously approved scheme has commenced and there is nothing substantive before me to indicate otherwise. Moreover, in any event, it is not suggested that circumstances, in the main, have materially changed since the previous decisions were made. Accordingly, although I intend to consider these appeals on their merits and in light of all representations made, it is appropriate to have regard to the previous decisions in assessing the potential impact of the current proposal.
7. The Old Red Lion and adjoining single storey off licence are Grade II listed buildings and designated heritage assets. I am mindful of my statutory duties in this regard.
8. The main issues in these appeals are:

Appeal A and Appeal B

- Whether or not the proposal would preserve the listed buildings, any features of special architectural or historic interest that they possess, or their setting; and

Appeal A

- Whether the proposal would achieve adequate living conditions for neighbouring occupiers and its own potential future occupiers, with particular regard to external amenity space, privacy, light and outlook.

Reasons

Listed buildings

9. The appeal buildings are situated on a main road, adjacent to a number of retail and restaurant uses and, due to their distinctive design, are prominent within the street scene. Whilst the wider local area is predominantly

¹ APP/N5660/A/13/2209529 and APP/N5660/E/13/2209938

residential, there is a public park to the rear of the site, together with a car parking area, which serves the adjacent flats.

10. From the evidence available to me, including the listing description, I consider that the significance of the listed buildings is largely drawn from the distinctive Tudorbethan style of their design, including their form, fabric and range of architectural features, as well as their age, and continued and historic use as a public house and adjoining off licence. Due to their distinctive design, prominence within the street scene and their use, the appeal buildings also make a positive contribution to the visual amenities and vibrant character of the area.
11. The proposal seeks to construct a three-storey block above the existing single storey former off licence, as a side extension to the main public house building. Currently, due to the limited height of the off licence element, the side elevation of the public house is clearly visible from the main road to the front and the car parking area to the rear, which serves a number of properties.
12. Both the previously approved scheme and the appeal scheme would largely fill this gap between the existing gable wall and the adjacent five-storey building. As a result, only limited oblique views of the proposed side elevation would be available from the main road. Nonetheless, whilst longer distance views would be limited, from the car parking area to the rear, the side and rear elevations of the proposed extension would be clearly visible.
13. In the previous scheme, the form of the extension was graduated, with the depth of the top two storeys considerably less than the remainder. However, the appeal proposal would not follow this approach. The more regular form of the proposed extension would result in a considerably more substantial addition, in scale and visual impact, with the variation in depth between the three additional storeys much more limited.
14. The proposed form and the depth of the second and third floors would result in an unacceptably dominant and incongruous addition. It would relate poorly to the existing appeal buildings and the scale and massing of the proposal would result in a visually overwhelming addition. It would not be subservient or sympathetic to the historic character or appearance of the existing buildings and would materially diminish the legibility of the heritage assets. Furthermore, I am not satisfied that the neighbouring building, or the longer-distance screening provided by it, would adequately address this harm.
15. Viewed from the main road, the design of the front elevation of the proposed scheme would not be dissimilar to the previously approved development. The height of the appeal structure would be lower than the ridge height of the adjoining public house and the relative proportions, articulation and set back of the front elevation would ensure that the contemporary design and materials would relate positively to the main front elevations of the listed buildings. However, this too would not address the harm identified above.
16. Accordingly, I conclude that the proposal would not preserve the listed appeal buildings or their setting. It would be contrary to the *Lambeth Local Plan 2015* (LP) Policies Q5, Q11 and Q20, where they collectively seek to protect the historic environment.

17. For these reasons, the proposal would cause harm to the significance of the listed buildings, which is a matter to which I give great weight and importance. However, it would not lead to the loss of the buildings, or the removal of features of special interest. As such, I find the harm, whilst material, would be less than substantial. Paragraph 196 of the National Planning Policy Framework 2019 (NPPF) requires that, in the case of designated heritage assets, the harm should be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use.
18. The proposal would result in the development of three additional residential units, in an area which is within easy reach of a range of services and facilities. The proposed flats would add to the local housing stock and would be likely to contribute to the support of these services, both during construction and following occupation. As such, the scheme would have social and economic benefits.
19. The appeal scheme would also enable the re-use of the vacant single-storey former off licence, as part of the adjoining public house, and would support its continued use, which would also be a benefit of the proposal. However, on the evidence available to me, including the previously approved scheme, I am not satisfied that it has been adequately demonstrated that this benefit could not be achieved through other, potentially less harmful, schemes.
20. As a result, I find that it has not been demonstrated that the development proposed, whilst viable, would be necessary to secure the optimum use for the off-licence building. Furthermore, it has not been suggested, nor do I consider, that the use of the public house would be at risk in the absence of the appeal proposal. This considerably reduces the public benefits that would result from the scheme. Taking into account the scale of the proposal, I consider overall that these benefits would be relatively modest. Nonetheless, given the general encouragement in the Framework for such development, I give them moderate weight.
21. Paragraph 193 of the NPPF advises that great weight should be given to the conservation of a designated heritage asset in considering the impact of a proposal on its significance. Paragraphs 184 and 194 state that heritage assets are an irreplaceable resource and any harm to, or loss of, the significance of a designated heritage asset (from its alteration or destruction, or from development within its setting) should require clear and convincing justification. In addition, paragraph 192 refers to the desirability of new development making a positive contribution to local character and distinctiveness. For the above reasons, I consider that the development would not make such a contribution.
22. For these reasons, I find that the benefits of the proposal would not be sufficient to outweigh the harm identified to the significance of the heritage assets and the proposal would not meet the aims of paragraph 184 of the NPPF, to conserve heritage assets in a manner appropriate to their significance.

Living conditions

23. The proposed flats would each be provided with external balcony space to the rear, with an additional balcony to the front for the third floor flat. It is not a matter of contention that the amount of space provided and, in particular the depth of the proposed balconies, would not meet the Council's identified

development plan requirements for private outdoor amenity space for new dwellings for all three flats. These requirements recognise the need for, and the role played by, private outdoor space in achieving adequate living conditions for occupiers.

24. Taking this into account, I am not satisfied that the extent and type of indoor accommodation proposed, or the close proximity of public outdoor space, would adequately compensate for this deficiency in private outdoor space, even for single person occupancy. Consequently, in the absence of a meaningful amount and quality of outdoor private amenity space, I consider that the proposal would not provide adequate living conditions for its own potential future occupiers.
25. Given the siting, proximity and respective siting of the proposed rear balconies relative to the neighbouring flats at No 46, I consider that there would be the real potential for the proposal to result in an unacceptable loss of privacy and overlooking for the neighbouring occupiers, which would have a harmful and detrimental effect on their living conditions.
26. In addition, having regard to local concerns and given the scale and form of the proposal and its proximity to No 46, including the windows and balconies on its side elevation, I consider there is also potential for the proposal to result in a material loss of light and outlook for neighbouring occupiers. Whilst the previously approved scheme would have some impact in this regard, for the reasons given above, I consider that the impact of the appeal proposal would be materially more harmful in these respects. Although this would not be sufficient in itself to find against the proposal, it adds further weight to the harm identified above.
27. Accordingly, for these reasons, I conclude that the proposal would not achieve adequate living conditions for neighbouring occupiers and its own potential future occupiers. It would be contrary to the LP Policies Q2 and H5, where they seek collectively to ensure that new developments protect the amenities of existing neighbouring occupiers and provide appropriate living conditions for potential future occupiers.

Other Matters

28. The Council refused the planning application for a number of reasons beyond those considered above, including: the effect of the proposal on the operation of the local highway network and sustainable transport, and whether the proposal would make adequate provision for cycle and car parking; whether the proposal would make adequate provision for affordable housing; whether the proposal would meet the requirements for water use, energy consumption and sustainable design standards; and the effect of the proposal on flood risk.
29. Had I found in favour of the scheme in respect of the main issues identified above, these are all matters that would have been necessary for me to consider. However, no affordable housing was proposed as part of the scheme and, even if I were to find in favour of the appellant on each of these other matters, the absence of harm in these respects would not outweigh or address the harm identified in respect of the main issues. As such, it is not necessary for me to consider these other matters further.

30. Concerns have also been raised in respect of other matters, such as the entrance arrangements for the proposed flats. However, for similar reasons to those above, it is not necessary for me to consider these further in this case. Whilst the proposal would have some benefits, considered overall and for the reasons given, I find that it would be contrary to the development plan as a whole.

Conclusions

31. For the above reasons and having regard to all other matters raised, I conclude that the appeals should be dismissed.

A Napier

INSPECTOR