
Appeal Decision

Site visit made on 10 December 2019

by David Murray BA (Hons) DMS MRTPI

an Inspector appointed by the Secretary of State

Decision date: 6th January 2020

Appeal Ref: APP/V5570/C/19/3223170

Old Crown, 90 Highgate Hill, London, N19 5NQ.

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991.
- The appeal is made by Handh London Ltd. against an enforcement notice issued by the Council of the London Borough of Islington.
- The enforcement notice, numbered 03/2019, was issued on the 10 January 2019.
- The breach of planning control as alleged in the notice is the extension and enclosure of the roof terrace, installation of awnings to the north-west, south-west and south-east elevation, the installation of an external enclosed staircase to the eastern corner of the property and the installation of air conditioning units to the principal elevation and an extraction flue to the rear (north) elevation.
- The requirements of the notice are to: remove from the land the enlarged and enclosed awning to the main terrace area; the awnings to the north-west and south-west elevations; the enclosed external staircase; the air conditioning units to the principle elevation all cladding decking new fencing and tiling that fronts the highway, and extended extraction flue to the rear, making good and damage to the fabric of the original building.
- The period for compliance with the requirements is three months.
- The appeal is proceeding on the grounds set out in section 174(2) (a) and (f) of the Town and Country Planning Act 1990 as amended.

Summary of the Decision: The appeal is dismissed, the notice is upheld and planning permission is refused.

Appeal on ground (a)

Main issues

1. The main issues are: firstly, the effect of the unauthorised development on the character and appearance of the host building and the local area including the Highgate Hill Conservation Area and the setting of neighbouring listed buildings; and secondly the effect on the living conditions of the occupiers of nearby residential properties.

Background

2. The appeal site comprises a three storey public house in a Victorian Gothic style with a Baronial corner turret with copper spire, and brick detailing in the main elevation, dormer windows and end gable. The building lies in a prominent position on the corner of Highgate Hill and Hornsey Lane, is locally listed and is seen within the setting of the neighbouring Grade II listed building of 2 Hornsey Lane to the north and Grade II* listed building St Joseph's Roman Catholic Church to the south and on the opposite side of Highgate Hill.

3. Although this ground of appeal is concerned with the planning merits of the development specified in the notice the appellant has indicated that some of the work, such as the external flues, has already been removed in accordance with the notice. Moreover, the appellant has agreed to undertake other compliance work as listed in section 6 of the Appeal Statement. In this context the appellant has also indicated in section 6 that other elements could be modified and retained as it is said complete removal exceeds what is necessary to remedy the breach. This is related to the appeal under ground (f) but as these changes could affect the planning merits of the development, I will have regard to them under ground (a) as well.

Reasons

4. Taking the main elements of the notice in turn:

Extension and enclosure of the roof terrace

5. I note the appellant's evidence and photograph about the previous enclosure of the roof terrace at the south-eastern end of the main building, but it is clear that this enclosure has been removed and replaced by a different structure. Further, the notice does not attack the use of the terrace as a pub garden. The enclosure of the terrace and balustrades are in materials which are not sympathetic to the design of the main building and the appearance and prominence of the structure harms the character of the Conservation Area. Even with a retractable roof and the painting of the structure in a consistent form, I find that the scale and prominence of the structure would still look out of place and be harmful to the setting of the public house and the wider locality including the setting of St Josephs. In terms of residential amenity, the existing cladding materials, and as proposed to be replaced would be unlikely to contain the noise from the activity with socialising on the terrace, especially late into the evening, and this would be likely to harm the living conditions of the occupiers of residential property close to this part of the site. This adds to my concern about the harmful impact of the roof terrace enclosure.

External enclosed staircase

6. Although located at the rear of the building the plastic and timbers material in this structure are not appropriate to the overall design of the main building and detract significantly from its appearance. The appellant proposes a glazed structure in this location but the details of this and how the structure would fit in with the building are not before me to consider.

Awning to the north-west

7. This awning is in a mixture of material and the appellant proposes to retain the frame of the retractable roof. However, even in a revised form the awning would visually fill up much of the space between the side elevation of the main building and the boundary wall of the site. Although proposed with a retractable roof, the frame of the awning would have a degree of permanence and its scale, nature and prominence would detract from the setting of the building. I see the visual effect of the awning to be materially different to the presence of removable sun shades, as present at my site visit and often used in a pub garden environment.

Awning to the south-west

8. Similar to my assessment in paragraph 7 above, it is proposed to retain the structure of the awning with a retractable roof, however, the size and form of this structure with a degree of permanence dominates the architectural form of the main building and its setting in the street scene. The frame and roof also mask some of the attractive detailing in this principle elevation.

External air conditioning units

9. These white units and white ducting had been removed by the time of my visit, but the photograph attached to the notices shows that these utilities were visible at the corner of the main building. Their appearance detracts significantly from the architectural character of the building.

External extraction flue

10. The appellant's agent agrees that the extraction flue is of a standard design and appearance and is not appropriate to its setting. The photograph attached to the notice shows that the flue was constructed in galvanised metal in a rudimentary form and although sited to the rear of the building the apparatus was visible from the public realm. The appellant suggests that the flue could be boxed-in to be less intrusive, but I have no details of this before me. Moreover, the Council alleges that the extractor equipment causes noise disturbance and odour which is harmful to the living conditions of neighbours and I noted at my visit that there are residential properties immediately to the north-east of the site. The representations on the appeal from residents also mention the problems of noise and odour and it has not been demonstrated that a revised form of extrication flue system would overcome these problems.

Other related work

11. The requirements of the notice also specify the removal of ancillary work including cladding, decking and fencing. I am satisfied that these aspects relate to the main requirement of the notice and taken together have a harmful and imposing effect on the character and appearance of the host building and its setting on this prominent corner site.

Conclusion on main issues

12. I conclude that the work specified in the notice does not make a positive contribution to the local character and distinctiveness of the area but is harmful to the character and appearance of the host building and spoils its setting in the Highgate Hill Conservation Area as well as the setting of the nearby listed buildings. The extension, enclosures and other alterations do not preserve or enhance the character or the appearance of these heritage assets. Some elements also harm the living conditions of neighbours. As such I find that the unauthorised work conflicts with the requirements of Policy CS 8 and CS 9 of the Council's Core Strategy (2011), Policies DM2.1 and DM2.3 of the Local Plan: Development Management Policies (2013) as well as the guidance in the Urban Design Guide – Supplementary Planning Document (2017).
13. This conflict with the development plan and identified harm has to be balanced with other considerations. I have taken account of the appellant's submission that the alterations have been necessary to add flexibility to the business model and increase the capacity of the site with seating covers for outdoor

eating. All of the investment made would be lost if the notice was complied with but the direct effect on the operation of the business has not been set out. I also appreciate that the operator's intention was to add to the vitality of the pub and add life to the street scene, however, I do not consider that the enclosures, additions and alterations achieve this in a visually acceptable manner or that this is the only way to achieve such enhancement.

14. In the context of the National Planning Policy Framework (NPPF) I find that the unauthorised work constitutes 'less than substantial harm' to the significance of these heritage assets. However, when great weight is placed on the conservation of these assets, I find that the other considerations and benefits put forward do not outweigh the conflict with the development plan or the harm that I have identified. This indicates that planning permission should not be granted. The appeal on this ground fails.

Appeal on ground (f)

15. The appeal on this ground is that the harm caused by the elements listed for removal can be resolved by appropriate mitigation and therefore these lesser steps would overcome the objections.
16. However, I have considered the planning merits of the mitigation put forward by the appellant and have concluded that the harm to the character and appearance of the main building and its setting in the conservation area, and to listed buildings, would remain. These lesser steps would therefore not overcome the objections. The appeal on this ground fails.

Formal Decision

17. The appeal is dismissed and the enforcement notice is upheld. Planning permission is refused on the application deemed to have been made under section 177(5) of the 1990 Act as amended.

David Murray

INSPECTOR