



Appeal Decision

Site visit made on 18 December 2019

by Neil Smith BA Hons BTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 15 January 2020

Appeal Ref: APP/H5390/W/19/3238432

Hand And Flower House, 617 King's Road, London SW6 2ES

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission under section 73 of the Town and Country Planning Act 1990 for the development of land without complying with conditions subject to which a previous planning permission was granted.
- The appeal is made by Hand and Flower Properties Limited against the decision of the Council of the London Borough of Hammersmith & Fulham.
- The application Ref 2019/01941/VAR, dated 21 June 2019, was refused by notice dated 21 August 2019.
- The application sought planning permission for the change of use from Use Class A4 (pub) to A1 (retail) at ground and basement level; Erection of front, rear and side dormer roof extensions and the erection of rear extensions at ground, first, second and third floor level following the demolition of single storey rear wing in connection with the provision of 1 x one bedroom and 4 x two bedroom self-contained flats; formation of roof terraces at third floor level; alterations to existing shopfront; installation of new doors and windows at ground floor level to the side elevation; formation of refuse and cycle storage at the rear of the property; alterations to Edith Row and rear elevation of the building; associated external alterations without complying a condition attached to planning permission Ref 2019/00178/VAR, dated 18 June 2019.
- The condition in dispute is No 2 which states that: The development shall be carried out and completed in accordance with the drawings hereby approved, and the ridge of the rebuilt wing mansard shall not exceed the height as shown on drawing No. 1702 PL (-2) 64 P6.
- The reason given for the condition is: In order to ensure full compliance with the planning application hereby approved and to prevent harm arising through deviations from the approved plans, in accordance with Policies DC1, DC4 and CD8 of the Local Plan 2018.

Decision

1. The appeal is dismissed.

Procedural matter

2. The Council's decision notice, the application form and appeal form states the description of development on the decision notice Ref 2019/00178/VAR granted 18 June 2019. For clarity I have altered the description of development in the banner to that stated on the decision notice, Ref 2017/03788/FUL dated 17 July 2018, which is the original act of development. The condition in question applies to both and in identical form.

Main Issue

3. The main issue is the effect of the appeal proposal on the living conditions of the occupiers of neighbouring residential properties in New Kings Road with particular regard to noise, outlook and light.

Reasons

4. The appeal site accommodates a four-storey building, the former Hand and Flower public house. It has been converted with flats occupying the upper floors, and a commercial space on the ground floor. It is on a prominent corner of King's Road and Edith Row and is in the Moore Park Conservation Area (CA), a designated heritage asset.
5. The appeal proposal is for the erection of acoustic screens and the installation of French doors at the rear of the building. The western elevation of the building staggers in profile and has created areas of flat roof at the first and second floor levels. The acoustic screens would be within the recessed parts of the building and enclose parts of the flat roofs to form terraces. Together, they would provide a terrace for the flats on the first and second floors.
6. I saw from my site visit that the full height windows, which would be replaced by the French doors, have a film attached to them obscuring the glazing to a height of approximately 1.7 metres. The windows also have restricted openings.
7. The Hammersmith and Fulham Planning Guidance, Supplementary Planning Document (2018) (SPD), contains a series of Key Principles. Key Principle HS8 Residential development – balconies and terraces, states that planning permission will not normally be granted for roof terraces if the use of the terrace is likely to cause harm to the existing amenities of neighbouring occupiers by reason of light, noise and disturbance.

Noise

8. The roof terraces would be in close proximity and at a similar level to the bedroom windows on the first and second floors of the residential properties on New Kings Road. Whilst the acoustic screen would be at a height of 1.7 metres, I am not convinced that noise from activities would be fully contained within the terrace itself and that noise could escape above the height of the screen. I also note that as the proposed French doors would serve the living rooms, they would be in regular use, and could be left open and that noise generated from within the flats could also escape. For these reasons, the proposal would result in a significantly harmful impact on the living conditions of the neighbouring residents.
9. The appellant argues that the modest size of the recessed terraces would restrict the amount of people that can use them at any one time and that any noise from activities on them would be limited. However, this would not overcome any noise emanating from within the flats when the French doors are open. I am also not convinced that low occupancy would prevent unacceptable noise levels.
10. The appellant has also drawn my attention to the balconies at the development at 1-3 Michael Road, which are located beyond the rear gardens of the residential properties on New Kings Road. Whilst the balconies do not have

screens at the same height as the appeal proposal, they are located further away from the rear bedroom windows of the residential properties on New Kings Road. For this reason, I consider that the impact of noise generated from these balconies is likely to be less harmful than those of the appeal proposal.

Outlook

11. Key Principle HS6 Development, extensions and alterations - scale and massing of the SPD states that extensions, as a general rule, should not result in an infringing angle of more than 45 degrees. It further states that if any part of the proposed building extends beyond these lines, then an onsite judgement will be a determining factor in assessing the effect that the extension will have on the existing amenities of neighbouring properties. I saw from my site visit that when viewed from the rear garden of No 619 New Kings Road, the acoustic screening would not project closer to the garden area than the existing building.
12. When considered against the height of the building immediately behind, and because the screens would be positioned within the recessed element of the building, the proposal would not result in any unacceptable loss of outlook or increased sense of enclosure.

Light

13. For similar reasons, I am satisfied that there will be no unacceptable loss of light to the neighbouring residential properties on New Kings Road. I am also mindful that the appellant has provided a letter dated 25 September 2019 from a specialist which states that the proposal will not reduce levels of sunlight and daylight and I have no evidence to the contrary.
14. Concluding on this main issue, whilst the development would not cause unacceptable harm in terms of light and outlook this does not overcome the significant harmful impact on the living conditions with particular regard to noise.
15. Consequently, the proposal conflicts with Policies CC11, CC13, DC4 and HO11 of the Hammersmith and Fulham Local Plan (2018) and Key Principle HS8 of the SPD which require, amongst other things, development to show that there will be no undue detriment to the general amenities enjoyed by existing and surrounding occupiers of their properties.
16. I do not consider Policy DC1 is directly applicable in this instance as it relates more specifically to matters of urban design and such matters, in principle, are not in dispute.

Other matters

17. I acknowledge that there is no dispute between the parties that the proposal would not cause harm to the character or appearance of the CA. I have no evidence before me to reach a different conclusion in this respect.
18. I have also had regard that the proposal would incorporate green/climbing walls to provide a softer, greener appearance to the building when viewed from the gardens of these neighbouring properties.

Conclusion

19. For the reasons given above, and taking into account all other matters raised, the appeal is dismissed.

Neil Smith

INSPECTOR