



Appeal Decision

Site visit made on 25 February 2020

by Helen B Hockenhull BA (Hons) B.PI MRTPI

an Inspector appointed by the Secretary of State

Decision date: 13th March 2020

Appeal Ref: APP/E5900/W/19/3239499

131 Globe Road, Bethnal Green, London E2 0LJ

- 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 Other AI Ventures Ltd against the decision of the Council of the London Borough of Tower Hamlets.
 - The application Ref PA/19/00777, dated 3 April 2019, was refused by notice dated 3 June 2019.
 - The development proposed is the change of use from ground floor and basement of vacant A4 unit (former Railway Tavern) to Residential (C3) comprising 2x1 bed flats.
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Decision

1. The appeal is dismissed.

Procedural Matter

2. I am advised by the Council that since the submission of the appeal, the Tower Hamlets Local Plan 2031 (THLP) has been adopted. This replaces the Core Strategy 2010 and the Managing Development Document 2013. I have taken account of this changed policy position in determining the appeal.
3. The appellant has submitted amended plans which make provision for a light tunnel to give greater illumination to the basement of the appeal building and for an opening window above the doorways to the proposed flats. I have had regard to the 'Wheatcroft Principle'¹ and Annex M of the Procedural Guide: Planning appeals - England (March 2016). The amendments are minor and unlikely to have warranted further consultation. Furthermore, the Council was made aware of these changes through the appellant's Statement of Case and Final comments. Accordingly, as I consider that no party has been prejudiced, I accept these amended plans and give them consideration in this appeal.

Main Issues

4. The main issues in this case are:
 - whether or not the loss of the public house is justified with reference to national and local planning policies seeking to retain community facilities;

¹ Bernard Wheatcroft Ltd v Secretary of State for the Environment [JPL, 1982, P37]

- whether the proposed development would provide a suitable standard of accommodation for future occupiers in terms of privacy, ventilation, daylight/sunlight, external amenity space and refuse and cycle facilities.

Reasons

Loss of public house

5. Policy 4.8 of the London Plan seeks to prevent the loss of public houses unless there is evidence that they are no longer required and there is no longer a need for the facility within the local community.
6. Policy D.CF4 of the newly adopted THLP relates specifically to the loss of public houses and sets out more detailed criteria against which their loss must be assessed. This includes marketing the property for the existing use for a period of 12 months and if that exercise is not successful, a further 12-month period for a community use.
7. The appellant has provided evidence that the premises were marketed for a period of 12 months as an A4 use from February 2018. The marketing material also made reference to the potential of the site for alternative uses. I note the Council's concern that this may have affected the level of interest in the existing use. I acknowledge that marketing for a range of uses, subject to planning permission, would allow interest to be shown for a community use. However, Policy D.CF4 is specific to public houses as it tries to address the significant loss of such premises in London, a matter also recognised as a strategic issue in the London Plan. It is therefore important to test the market specifically for an A4 use.
8. The appellants' submission compares the market rent sought for the public house with other properties on the market. However, these premises are in different uses, in a range of locations with larger floor areas. I have been provided with no evidence that there is a lack of comparable properties on the market. Accordingly, I cannot be satisfied that the rent level sought would be appropriate for an A4 use in this location.
9. The appeal premises have not been marketed for a community use for a further period of 12 months in line with local plan policy. Whilst I acknowledge that the marketing undertaken would not preclude a community use, my concern regarding the rent level remains.
10. I am aware that the public house has not been in use for a number of years. The appellant has invested in the site and tried to re-establish the public house use, however, has been unsuccessful. I have also taken account of the fact that there are 4 pubs within a 500-metre radius of the appeal site, though one is closed. I consider this demonstrates no shortage of A4 provision in the area. Whilst these factors may go some way to indicate that there is no longer a need for the facility to serve the local community, this has not been adequately demonstrated through a robust marketing exercise.
11. Accordingly, the appeal proposal would fail to comply with Policy 4.8 of the London Plan, Policy D.CF4 of the THLP and paragraph 92 of the National Planning Policy Framework (the Framework) which seek to prevent the loss of facilities meeting community needs.

Standard of accommodation

12. The appeal proposes 2 one bedroom flats with a living area/ kitchen on the ground floor and bathroom/bedroom in the basement. Ground floor windows would abut the footway with the potential for passers-by to look into the property. This is not an unusual occurrence with redeveloped buildings or traditional terraced properties built up to the back of pavement. Any future occupier would be aware of the properties position. Accordingly, I consider that the proposed accommodation would be acceptable in terms of privacy for future occupants.
13. With regard to the provision of daylight/sunlight, the appellant's original submission included an Internal Average Daylight Study. This concluded that the daylight to the ground floor living areas of both flats would exceed the minimum requirements but would be marginally below in the bedroom areas in the basement. As I have already mentioned in the Procedural Matters, the appellant has amended the plans to include a light tunnel, extending from the rooflight to the basement level. An updated Daylight Study has demonstrated that adequate light would then be provided to the bedroom areas. The amended scheme also provides for an opening window above the doorway to each flat which would provide further natural ventilation. In light of the amendments made, I consider that the scheme would be acceptable in terms of daylight and ventilation.
14. Turning to the external amenity space, the London Plan² and Policy D.H3 of the THLP requires a minimum of 5 square metres of private outdoor space for 1-2 person dwellings. These policies seek to provide a suitable standard of accommodation irrespective of whether a proposal is new build or a conversion. This is not provided in the proposal and therefore the scheme would be deficient in this regard.
15. The appellant has brought my attention to a number of public open spaces and parks such as Bethnal Green Garden, Museum Gardens and Meath Gardens close to the appeal site. Whilst these do not form private outdoor space or overcome the policy conflict, I accept they provide some amenity space for future occupiers.
16. The Council also raises concern about refuse facilities to serve the flats and the provision of cycle storage. It is proposed that the facilities serving the existing 6 flats would be enlarged to accommodate the increased requirements. Whilst there may be a lack of information with regard to capacity and access for the refuse store, I have no evidence before me to suggest that the proposed cycle and refuse provision would not be acceptable. Suitably worded conditions on any planning approval could require the submission of further details.
17. In conclusion on this issue, I consider that the appeal scheme provides a suitable standard of accommodation in terms of privacy, daylight, ventilation, refuse and cycle facilities in accordance with Policy D.DH8 of the THLP. However, it would not provide appropriate private external amenity space. Consequently, in this regard the scheme would fail to comply with Policy D.H3 of the Local Plan which seeks to ensure that all housing development provides an appropriate living environment. It would also fail to comply with paragraph

² London Plan (2016) Housing Supplementary Guidance, Standard 26.

127d) of the Framework which seeks to achieve a high standard of amenity for existing and future users.

Conclusion

18. Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise.
19. I have found that the loss of the public house has not been satisfactorily justified in relation to national and local planning policies and that the proposal would not provide a suitable standard of accommodation for future occupiers. I acknowledge that the development would provide 2 units of residential accommodation contributing to housing need. It would also bring a vacant building back into use. However, these benefits do not outweigh the harm I have identified.
20. For the reasons given above, and having had regard to all other matters raised, I dismiss this appeal.

Helen Hockenhull

INSPECTOR