



Appeal Decision

Site visit made on 11 February 2020

by Graham Wyatt BA (Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 1st April 2020

Appeal Ref: APP/Z5060/W/19/3232123

Emperor House, Freshwater Road, Dagenham RM8 1RX

- 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 Mr T Bains against the decision of the Council of the London Borough of Barking & Dagenham.
 - The application Ref 19/00155/FUL, dated 30 January 2019, was refused by notice dated 28 May 2019.
 - The development proposed is described as the "retention of side canopy roof structures".
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Decision

1. The appeal is allowed and planning permission is granted for the retention of side canopy roof structures at Emperor House, Freshwater Road, Dagenham RM8 1RX in accordance with the terms of the application, Ref 19/00155/FUL, dated 30 January 2019, subject to the following conditions.
 - 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
 - 2) The development hereby permitted shall be carried out in accordance with the following approved plans: Site Location Plan and 6060/2 .

Preliminary Matter

2. The site was the subject of a previous appeal¹ (the previous appeal) which I have had regard to in my consideration of the development before me.

Main Issue

3. The main issue is the effect of the development on the living conditions of adjoining occupiers with particular regard to light and outlook at unit 4 Dominion Works.

Reasons

4. The appeal site forms a two storey building that is located within an established industrial/commercial estate. To the side of the building is a large gap which contains three overhead canopies where vehicles can be loaded and unloaded. The gap is bound to the east by buildings that form part of Dominion Works and it is proposed to retain two of the canopies located to the middle and rear

¹ PP/Z5060/W/17/3177539 dated 19 October 2017

- sections of the gap, and to remove the canopy to the front, while retaining a roller shutter door. The canopy to the rear would also be reduced in length.
5. The Council confirm that Unit 5 Dominion Works abuts the east at the rear of the site and is clearly marked on the site location plan provided with the planning application. A further four buildings run along the eastern boundary of the site, two of which are clearly marked as Units 1 and 3, which leaves Units 2 and 4 unmarked. Thus, the units that run from north to south along the eastern boundary of the appeal site are in numerical order from Unit 1 through to Unit 5.
 6. The canopy to the rear of the site, abutting Unit 5 will be reduced so that it no longer extends beyond Unit 4 and the middle canopy abutting Unit 3 has had part of its walling removed so that it no longer blocks the windows on that unit. In addition, the appellant also seeks to remove the canopy to the front of the site completely, retaining only the roller shutter door for security purposes. Given all of the proposed amendments, I am satisfied that the canopies at the appeal site would no longer harm the living conditions as identified by the Inspector that considered the previous appeal. Thus, the development would not result in material harm to the living conditions of adjoining occupiers.
 7. The Council cite Policy BP8 of the London Borough of Barking and Dagenham Council Borough Wide Development Policies Development Plan Document 2011 (the DPD) which seeks to protect, amongst other things, residential amenity from potential harm to outlook and light. However, as the title of Policy BP8 suggests, it is concerned with residential amenity and not the amenity of occupiers of other buildings such as a commercial or industrial premises. Moreover, Policy BP11 of the DPD also refers to the principle of maintaining residential amenity. Thus, I do not find Policies BP8 and BP11 of the DPD relevant to the appeal before me. This is consistent with the findings of the Inspector that considered the previous appeal at the site.

Conditions and Conclusion

8. Along with the standard time condition it is also necessary in the interest of certainty to define the plans to which the development shall accord. Thus, having regard to the development plan when read as a whole, the appeal is allowed.

Graham Wyatt

INSPECTOR