The Planning Inspectorate

Appeal Decision

Site visit made on 21 September 2020

by T J Burnham BA (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 8th October 2020

Appeal Ref: APP/H5390/W/20/3254624
Ground Floor, 228 Munster Road, Hammersmith and Fulham, London SW6 6AZ

- 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 Robert Radojcic (Bistro Bistro Ltd.) against the decision of the Council of the London Borough of Hammersmith & Fulham.
- The application Ref 2019/00966/FUL, dated 29 March 2019, was refused by notice dated 17 March 2020.
- The development proposed is described as 'due to lack of safe and dry storage place, we have closed back yard with wood and plastic roof to make it waterproof and made this conservatory storage place and office use for paperwork and wages. All extra chairs, tables, beer barrels, heaters, benches, oranges, plates e.c.t are kept there'

Decision

1. The appeal is dismissed.

Procedural Matters

2. The description of the proposal has been altered from the application form to the decision notice. Whilst I can appreciate the reasons for the change of description in the interests of brevity, I have no confirmation that the appellant has agreed to the change and I have determined the appeal based on the original description.

3. The structure was already in place at the time of my site visit and broadly accorded with the submitted plans. I have therefore determined the appeal on that basis.

4. The evidence indicates that the application site sits outside of, but immediately adjacent to the Central Fulham Conservation Area (the conservation area).

Main Issues

5. The main issues are:

   i. the effect of the proposal on the character and appearance of the area and its implications for the setting of the conservation area;

   ii. the effect of the proposal on the living conditions of neighbouring occupiers with particular regard to noise; and

   iii. the effect of the proposal on the living conditions of neighbouring occupiers with particular regard to openness.

Reasons

Character and appearance

6. The appeal site is within a short run of terraced properties of established and substantial construction which incorporate traditional brickwork to their rear elevations which provide a positive contribution to the setting of the adjacent conservation area. These construction and material characteristics are shared with properties on Sherbrooke and Orbain Road to the east which are within the conservation area. They therefore form some of the defining features of its character and appearance.

7. The structure is visible across adjacent boundary treatment from Sherbrooke Road. It incorporates a large amount of plastic glazing, which is not a material of any substantial quality. This affords the structure a rather ramshackle and temporary appearance which jars with the traditional, attractive, well established and well-built nature of the nearby properties.

8. It therefore detracts from the contribution the rear of the terrace makes to the setting of the conservation area, therefore harming its significance. This harm is less than substantial and Paragraph 196 of the National Planning Policy Framework states that such harm should be weighed against the public benefits of the proposal. I have identified no public benefit which would outweigh the harm I have identified.

9. I therefore conclude on this issue that the appeal scheme is contrary to Policies DC1, DC4 and DC8 of the Hammersmith and Fulham Local Plan (2018) (HFLP) and key principles CAG2 and CAG3 of the Planning Guidance Supplementary Planning Document (2018) (SPD) which amongst other things require that development proposals protect heritage assets.

Living conditions - noise

10. I am not convinced based on the evidence before me that the structure is used solely for storage purposes. Whilst some items appeared to be in storage, I was able to observe on my site visit that the area was fitted out with seating and included tables and a large flat screen TV fitted to the wall, suggesting uses other than storage.

11. The area has a very tight urban grain and the property is surrounded by residential dwellings at close quarters. The insubstantial construction materials are very unlikely to offer any significant soundproofing meaning that activities taking place within the structure are likely to the audible from nearby dwellings, particularly in the summer when windows are likely to be open.

12. I appreciate that if the area were still used as a yard there would be some noise impact as would be a matter of course for a restaurant service yard. However, the enclosure and covering of the area means that it is far more likely that users would dwell within the area, prolonging noise impact.

13. Although the appellant suggests that a condition requiring noise insulation could resolve this issue, I am unclear if, or how insulation could be retrofitted to the structure given the nature of its construction. Such a condition would therefore be unreasonable.

14. I conclude on this issue therefore that it is likely that noise associated with the use of the structure has an unacceptable adverse impact on the living conditions of neighbouring properties such that it has a detrimental impact on the enjoyment of their homes. The proposal would therefore be contrary to Policies CC11 and CC13 of the HFLP and key principle NN4 of the SPD which amongst other things seek to protect the living conditions of those within the vicinity.

Living conditions – openness

15. Rear yard areas within the vicinity appear to host extensions and outbuildings such that they form an established part of the character and appearance of the area which is densely developed. The area does not have open characteristics. Whilst the proposal has been developed close to the boundaries there is little evidence that the depth and size of the structure harms the living conditions of adjoining occupiers in any spatial sense.

16. The proposal would not therefore conflict with Policy DC1 of the HFLP in this particular regard. Policy HO11 of the HFLP specifically relates to new housing while key principle HS4 of the SPD is included within the housing standards section of the document and appears to relate to extensions to residential dwellings. This policy, nor this particular part of the guidance are therefore relevant to this proposal.

Conclusion

17. Taking all relevant matters into account, the appeal should be dismissed.

T J Burnham

INSPECTOR